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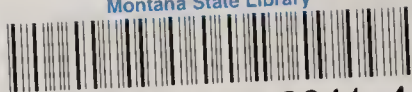
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This report has been compiled in response to Senate Joint Resolution 22 in which the Montana Legislature requested the Office of the Governor to study shelter care and detention services for juveniles and to develop a comprehensive plan for the provision of such services.

This task was carried out by the Detention and Shelter Care Steering Committee, which consisted of representatives of several agencies and organizations in Montana State Government. Staff support was provided by Mary Blake, through a contract with the Montana Board of Crime Control. Additional staff assistance was rendered by the Youth Development Bureau, Department of Social and Rehabilitation Services, and the Research Unit of the Governor's Office of Budget and Program Planning. Financial support came from the Montana Board of Crime Control and the Youth Development Bureau of Social and Rehabilitation Services.

The study supporting this plan could not have been completed without the cooperation of the professionals serving in the field of juvenile justice and youth services. Acknowledgement of their valuable time and assistance is offered to all of the Juvenile Probation Officers, Aftercare Counselors, law enforcement personnel, and county social workers who contributed so willingly of their time.

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INTRODUCTION

This document was prepared in response to Senate Joint Resolution No. 22 which was introduced by Senators Tom Towe and Mike Greely in the 44th Legislative session, 1975.

The impetus for SJR 22 was the submission of several bills to the legislature regarding funding of detention and shelter care services. Local governmental agencies expressed a concern for youth being detained and requested assistance from the State in providing adequate detention facilities. A lack of information and state direction in the area was evident. For one thing, no "system" existed which the State could buy into. The result was collaboration between several legislators and state youth services planners who supported the concept of studying the current situation in order to develop specific plans for the development of such a service system. Commitments were obtained from several state departments and the resolution was passed unanimously on April 10, 1975. The resolution reads as follows:

*A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
OF THE STATE OF MONTANA REQUESTING THE OFFICE OF THE GOVERNOR OF
THE STATE OF MONTANA TO STUDY SHELTER CARE AND DETENTION SERVICES
FOR JUVENILES, AND TO DEVELOP A COMPREHENSIVE PLAN FOR SUCH SER-
VICES.*

*WHEREAS, the forty-third Legislature enacted the "Montana Youth Court
Act," which encourages the use of shelter care and holding facilities for
the detention of juveniles pending court action, and*

WHEREAS, there is a critical lack of such facilities, and

*WHEREAS, a number of Montana communities have shown considerable
interest in the development of such facilities, and*

WHEREAS, Congress has enacted the "Juvenile Justice and Delinquency Prevention Act of 1974" and has directed the states to develop plans to implement the goals of this act and those of the "Omnibus Crime Control and Safe Streets Act of 1968," and

WHEREAS, section 223(a)(12) of the "Juvenile Justice and Delinquency prevention Act of 1974" provides that juveniles, who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention, but must be placed in shelter facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, the office of the Governor of the State of Montana develop a comprehensive plan for shelter and detention care services for juveniles who are awaiting court orders or execution of court orders,

BE IT FURTHER RESOLVED, that the departments of Community Affairs, Institutions, Social and Rehabilitation Services, Health and Environmental Sciences, and Justice assist the Governor's office in developing the plan.

BE IT FURTHER RESOLVED, that the plan include: a philosophy of detention; a review of existing facilities and programs for detention; a designation as to state and local responsibilities within state organization; estimated costs of services and facilities, including alteration and remodeling of existing facilities; and recommendations as to content and scope of detention services.

BE IT FURTHER RESOLVED, that the comprehensive plan be reviewed by: the Montana Council on Criminal Justice Standards and Goals; the Montana Probation Officers' Association, the Montana Board of Crime Control; the Montana Judges' Association; the Montana Corrections Association; the Montana Sheriffs' and Peace Officers' Association, and the Montana Association of Counties.

BE IT FURTHER RESOLVED, that the plan be submitted with recommendations for legislation, to the Legislative Council four months prior to the convening of the Forty-fifth Legislative session.

Personnel of the Montana Board of Crime Control (MBCC) and the Youth Development Bureau of Department of Social and Rehabilitation Services agreed to staff the study at the request of the Governor's office. MBCC and the Youth Development Bureau contracted for additional staff and provided supportive services for the study. A steering committee was established by the Governor's Office which included representatives of the departments of Community Affairs, Institutions, Social and Rehabilitation Services, Health and Environmental Sciences, Justice, and the Office of the Superintendent of Public Instruction. A representative of the Montana Probation Officers' Association was also included at a later date. This Steering Committee was responsible for the development of a working philosophy of detention and shelter care and review of all issues and recommendations offered in this document.

METHODOLOGY

Of primary concern was the question of current practices and policies as contained in statutes currently pertaining to the detention of youth. An initial review of the recently passed Montana Youth Court Act indicated that the subject of detention was treated inadequately and superficially. (In all fairness to the authors of that legislation, the task of including within its purview various parts of the criminal justice system, involving the public in the process, and rewriting a seriously outdated set of juvenile statutes was enormous feat.)

In the areas of practice and policy, little was known about how detention decisions were made. No information existed on who made detention decisions, the factors that affected the decisions, or the summative effects of those decisions. This area was of major concern to the Steering Committee, for without this information in hand, any attempt to modify the current system would be premature.

In order to correct some of these deficiencies, a questionnaire designed in cooperation with the University of Denver and the University of Montana was administered to 115 persons involved in making detention and shelter care decisions in Montana. The respondents included aftercare counselors, juvenile probation officers, chiefs of police, juvenile police officers, and county social services case-workers (see Appendix 1). In the survey the respondents were asked as many as 175 questions on what they felt were the objectives of detention and shelter care; information they considered important or unimportant when making these decisions; and their opinions on a wide spectrum of detention and shelter care issues. An additional questionnaire was administered to chief probation officers concerning their detention practices and policies (see Appendix 1). This questionnaire was also designed in cooperation with the University of Denver and addressed similar questions.

Another area of concern was acquiring an accurate picture of the youth detained and sheltered in Montana. The Montana Board of Crime Control (MBCC) has been supporting a voluntary juvenile information system for the Youth Courts for the past five years. 1974 data was retrievable from that system on the number of referrals to probation offices, the number of youth detained, length of detention, type of alleged offense, dispositions and characteristics of the youth involved. An analysis of that data is contained in Appendix 1.

Data of this type for 1975 was more difficult to gather, as the MBCC was changing to a new system during that year. Some Youth Courts, as a result, were using the old system, some the new system, and a few jurisdictions discontinued reporting all together. The new system was not fully operational prior to the completion of this study and, therefore, the data was not easily retrievable. However, some data for 1975 regarding youth detained and length of detention was gathered from individual probation offices and county jails. In some jurisdictions, estimates had to be used due to lack of accurate data. The resultant 1975 statistics regarding detention are reported in Chapter I, Section 2.

Shelter care data on the number of youth sheltered and length of such shelter care was simply not available for this study. Youth Courts, county social services (SRS), and the Bureau of Aftercare (Department of Institutions) do not maintain this particular information in an easily accessible format. The information systems of SRS and Aftercare, for example, do not distinguish between shelter care as defined by this study (temporary care of youth in physically unrestricting facilities pending court action or execution of a court of administrative order) and longer term placement in foster or group care. The law regarding temporary care pending court order or action does not distinguish between detention and shelter care and, therefore, the Youth Courts have not maintained separate data.

The report on jail costs (see Appendix 2) was compiled by the Research Unit of the Office of Budget and Program Planning. The samples were drawn with two factors in mind: (1) size of the community/county, and (2) availability of requested information. The resulting cost figures represent a minimum cost since factors such as facility space, utilities, and capital expenditures were not

included due to lack of availability of data.

WHAT IS DETENTION AND SHELTER CARE?

Detention, as used throughout this plan means: the temporary care of youth in physically restricting facilities pending court action or execution of a court or administrative order.

Shelter care, as used throughout this plan, means: the temporary care of youth in physically unrestricting facilities pending court action or execution of a court or administrative order.

For the purposes of this study and plan, youth means a person or persons between the ages of ten (10) through seventeen (17).

OUTLINE OF CHAPTERS

CHAPTER I is an analysis of 1974 data regarding detention as well as a brief presentation of 1975 data.

CHAPTER II presents the Steering Committee's working philosophy of detention and shelter care.

CHAPTER III is a review of the present juvenile statutes regarding detention and shelter care and is followed by the proposed detention and shelter care decision-making process.

CHAPTER IV reviews the facilities and services presently available for detention and shelter care of youth and proposes an alternative system with recommendations for costs and management. The costs associated with with the recommendations is presented in Section 3 and an approach to management of the proposed detention and

shelter care system is discussed in Section 4.

CHAPTER I

DETENTION IN MONTANA

SECTION I. ANALYSIS OF YOUTH REFERRED TO PROBATION IN 1974

Limitations of 1974 Data

A number of limitations to the Board of Crime Control data require further discussion. First of all, not all judicial districts reported for the entire year since the data reporting system is a voluntary one. As a result, a district may or may not have elected to report statistics on youth they handled.

Secondly, the youth reported on are only those who were referred to probation, and not the total youth either arrested or who in some other way came into contact with law enforcement. This data was not available in 1974.

Thirdly, the system does not identify repetitive offenders. In other words, the numbers reported are for individual offenses rather than identification of individual youths. It was, therefore, not possible to compute, for example, how many youth had been detained how many times each one had been detained during the year. However, even though the data identify offenses rather than individual youths, the term "youth" will still be used for the sake of consistency and convenience.

Finally, certain categories in the reporting format were basically not functional, as for example, income. This limited the number of independent variables that could be examined.

The Board of Crime Control is currently in the process of correcting these deficiencies, but in analyzing the 1974 data, the following approach was undertaken to minimize error. First, data are reported statewide rather than by district. Second, percentages

accompany all numbers, thereby allowing the reader to view the overall pattern rather than concentrating on detail.

DEFINITIONS

Several terms used in this analysis need to be discussed. The term status offense refers to those offenses defined by law, which if committed by an adult, would not constitute a criminal offense. In other words, these offenses can only be committed by juveniles. The following offenses are considered to be status offenses in the Board of Crime Control data reporting system:

- Curfew Violations
- Ungovernable
- Probation Violation*
- Local Runaway
- Non-Local Runaway
- Truancy
- Unsupervised
- Health and Morals
- Dependent and Neglect
- Disturbing the Peace
- Liquor Violation

At first glance, it appears that disturbing the peace is not a status offense. However, this classification is used as a residual category for most offenses dealing with parent-child conflicts. The term "youth in need of supervision" was not utilized as an identifying category of offenses in place of "status offenses" because the former is a disposition while the latter is a type of offense. Delinquent offenses, or those offenses of a criminal nature, was the other major category.

Detention, in almost all cases, refers to "overnight in jail." This is because under the "Care Pending Disposition" category in the reporting format, three sub-categories were available, including:

*"Probation Violation" was included in the computer programming as a status offense. Statutorially, a probation violation may include either a status offense or a delinquent offense or both.

No Detention; Overnight Jail; and Other. When computer runs were made the "Other" sub-category was analyzed with "Overnight Jail." The problem was in not knowing what placements were included in the "Other" sub-category. Therefore, where possible, the "Other" sub-category was excluded, but in the remainder of the analyses, it was placed under "Detained." Overall, this accounted for no more than a 2.7 percent error rate as evidenced by the following state totals:

	NUMBER	PERCENTAGE
No Detention	5610	72.3
Overnight Jail	1944	25.0
Other	208	2.7
TOTAL YOUTH	7762	100.0

ANALYSIS OF DETENTION DATA

Overall, four factors were considered in the analysis: (1) major offenses committed; (2) referral sources; (3) whether or not there was prior delinquency; and, (4) what the disposition of the youth was. All factors were broken down by sex and by type of offense (status or delinquent).

Youth Referred by Type of Offense

Table 1 breaks down the youth referred to probation by status and delinquent offenses and by sex. Overall, 25 percent of youth referred were detained. There was no significant difference between males and females in percentages detained and not detained. Males committed over twice as many offenses as did females, and male offenses were more likely to be delinquent offenses (48%) than were those of females (29%).

It must be noted that these percentages are not representative of a detention rate since these are only youth referred to probation

Table 1
TOTAL YOUTH REFERRED BY TYPE OF OFFENSE
AND WHETHER OR NOT DETAINED

	STATUS		DELINQUENT		COMBINED	
	#	%	#	%	#	%
DETAINED	1128	30	816	20	1944	25
NOT DETAINED	2626	70	3192	80	5818	75
TOTAL	3754	100	4008	100	7762	100

FEMALE YOUTH REFERRED BY TYPE OF OFFENSE
AND WHETHER OR NOT DETAINED

	STATUS		DELINQUENT		COMBINED	
	#	%	#	%	#	%
DETAINED	471	31	115	18	586	27
NOT DETAINED	1048	69	517	82	1565	73
TOTAL	1519	100	632	100	2151	100

MALE YOUTH REFERRED BY TYPE OF OFFENSE
AND WHETHER OR NOT DETAINED

	STATUS		DELINQUENT		COMBINED	
	#	%	#	%	#	%
DETAINED	657	29	701	21	1358	24
NOT DETAINED	1578	71	2675	79	4253	76
TOTAL	2235	100	3376	100	5611	100

and not total youth arrested or apprehended. The percentage of youth apprehended and then referred to probation statewide is not known, but it is known that these rates varied widely from judicial district to judicial district.

It is interesting that there were more youths detained for status offenses (58%) than for delinquent offenses (42%). However, when this is broken down by sex, less than half (or 48%) of the boys detained were for status offenses, whereas, 80% of the girls detained were for status offenses. This is explained in part by the fact that girls committed over twice as many status offenses as delinquent offenses, but in any case indicates that a girl committing such an offense was far more likely to be detained.

Major Offenses for which Youth were Detained

What were these offenses for which youth were detained? Table 2 is a partial listing of those offenses ranked by frequency. At the top of the list for males is Burglary, closely followed by Local Runaway, then by Ungovernable, Non-Local Runaway, and Dangerous Drugs. Of the five major offenses for which males were detained, three were status offenses.

For females, far and away the major offense for which they were detained was Local Runaway, followed by Non-Local Runaway, Ungovernable, Larceny Shoplifting, and Dangerous Drugs. However, the top three offenses were all status offenses and accounted for 68 percent of all females detained.

The major policy implication of this data thus far, especially for females, is the need for reconsideration of the appropriateness of detention for runaways, specifically, and status offenders in general. Some alternative programs have been developed in Montana

Table 2

MAJOR OFFENSES FOR WHICH
YOUTH WERE DETAINED IN 1974

OFFENSE TITLE	STATUS	MALES		
		DELINQUENT	# DETAINED	% DETAINED
BURGLARY		X	162	11
LOCAL RUNAWAY	X		159	11
UNGOVERNABLE	X		128	9
NON-LOCAL RUNAWAY	X		125	9
DANGEROUS DRUGS		X	114	8
LIQUOR VIOLATION	X		106	7
AUTO THEFT		X	105	7
GRAND LARCENY		X	60	4
PETTY LARCENY		X	58	4
CURFEW VIOLATION		X	51	4
OTHER			382	26
TOTAL			1450	100

OFFENSE TITLE	STATUS	FEMALES		
		DELINQUENT	# DETAINED	% DETAINED
LOCAL RUNAWAY	X		251	36
NON-LOCAL RUNAWAY	X		149	21
UNGOVERNABLE	X		77	11
LARCENY SHOPLIFTING		X	31	4
DANGEROUS DRUGS		X	30	4
LIQUOR VIOLATION	X		25	4
OTHER			139	20
TOTAL			702	100

for runaways since 1974, and it will be interesting to see if they have significantly impacted on these data.

Age of Youth Detained

Table 3 shows graphically the number of youth detained by age. The only group to show a steady increase through age seventeen was that of Delinquent Males. Delinquent Females leveled off at age sixteen through age seventeen, but their relative frequency was quite low (34) compared to the other three groups. Surprisingly, more female status offenders, between ages twelve and fifteen, were detained than any of the other three groups. But, by the time they reached sixteen, their numbers fell off drastically. Much the same was true for male status offenders, except they dropped off between ages sixteen and seventeen.

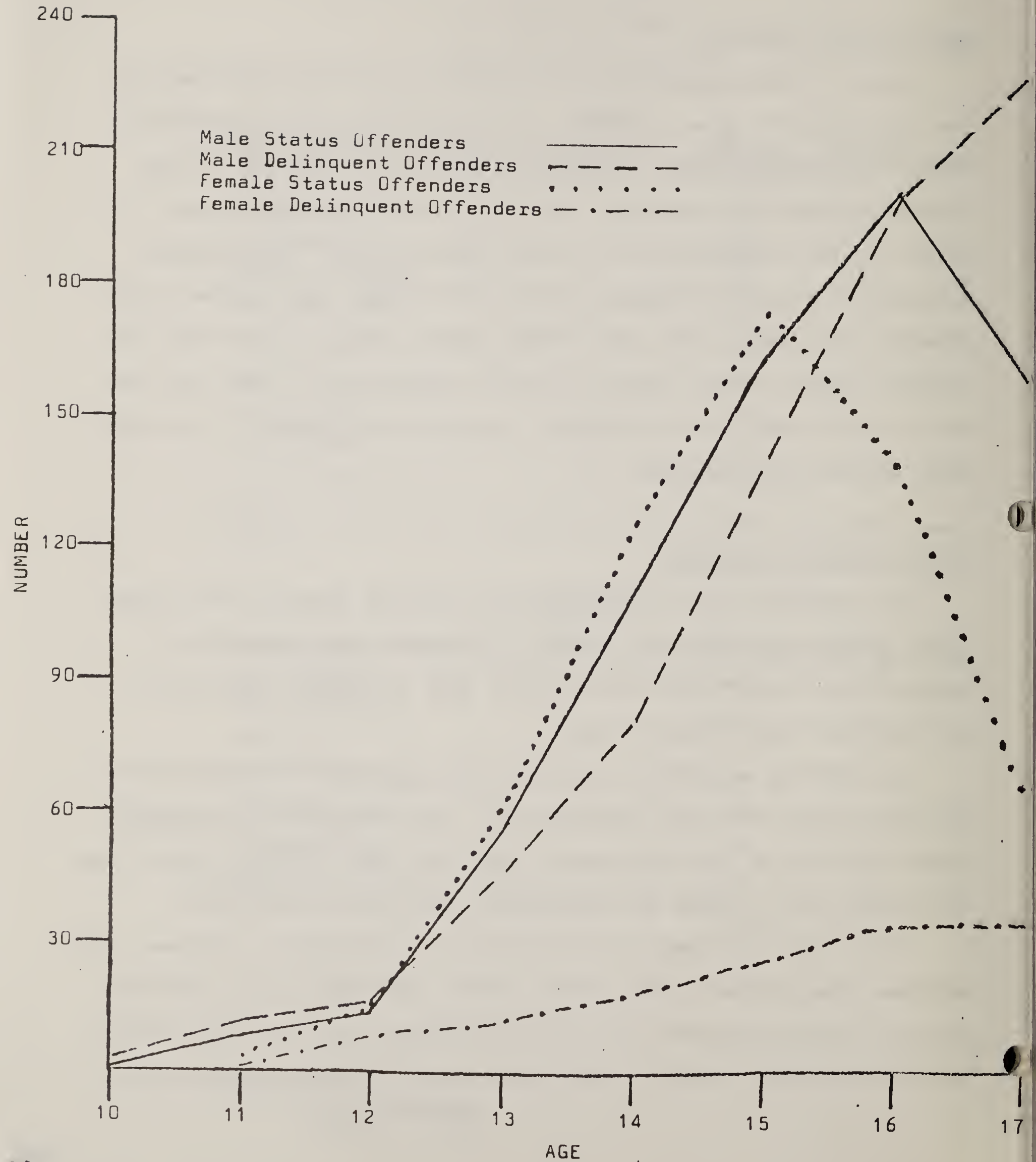
Referral Source of Youth

Are detained youth referred from different agencies than those youth who are not detained? Table 4 addresses this question by breaking down total youth referred by type of offense, whether or not detained, and referral source.

As might be expected, more youth were referred to probation by law enforcement than any other source. The proportion of detained youth referred by law enforcement (91%) was only slightly higher than the proportion of those not detained by law enforcement (98%).

Most law enforcement referrals were for delinquent offenses (67%), whereas, most school (93%), parent (88%), and other (56%) referrals were for status offenses. Of all the referral sources, law enforcement and parental referrals were more likely to result in detention.

Table 3
Number of Youth Detained
By Age and Type of Offense



This was independent of the nature of the offense as summarized below:

TYPE OF OFFENSE RESULTING
IN DETENTION

<u>REFERRAL SOURCE</u>	<u>STATUS</u>	<u>DELINQUENT</u>
Law Enforcement	36%	22%
Parent	32%	20%

School referrals for both delinquent (12%) and status (7%) offenses were least likely to result in detention. However, in the "Other" category, a high percentage of status offenders (37%), but a low percentage of delinquent offenders (6%) were detained. In other words, the detention outcome for "other" referrals was similar to law enforcement and parents for status offenses, and similar to school referrals for delinquent offenses. The overall pattern was the same for males and females.

Law enforcement's role was unquestionably critical in detention decisions. What the data does not indicate, however, is the particular dynamic of this role. It is possible that law enforcement generally referred more difficult cases to probation than did other sources. It is also like that law enforcement was in a stronger position to make detention decisions than were other referral sources. In all probability, however, it was a combination of type of case and ability to make detention decisions.

With parental referrals, however, the situation is more puzzling. It might be inferred that in those cases probation was viewed as a last result for a parent-child relationship gone seriously awry.

Table 4
REFERRAL SOURCE OF ALL YOUTH

	STATUS				DELINQUENT				COMBINED	
	DETAINED		NOT DETAINED		DETAINED		NOT DETAINED		#	%
	#	%	#	%	#	%	#	%		
L.E. AGENCY	1113	86	1994	81	851	98	2995	95	6953	90
SCHOOL	24	2	175	7	1	---	14	---	214	3
PARENT	97	8	210	8	8	1	32	1	347	4
OTHER	51	4	88	4	7	1	102	4	248	3
TOTAL	1285	100	2467	100	867	100	3143	100	7762	100

Prior Delinquency

Is there a relationship between prior offenses and detention? Table 5 answers this with an unqualified "Yes." Forty-eight percent of all referrals had a prior delinquency or status offense. However, 66 percent of detained status offense referrals had a record of a previous offense. The relationship between previous offense and detention was even stronger for those referred for delinquent offenses - 71 percent were detained. This pattern was the same for both males and females. The correlation for prior delinquency and detention was +.33 for status offenses and +.61 for delinquent offenses. Both correlations were significant at the .001 level of confidence.

It is not known how this relationship varied for number and kind of prior offenses and prior detentions. Certainly, if a youth had already been known to the authorities, the probability of detention was very high.

Dispositions of Youth

Table 6 presents the two major types of dispositions, either formal or informal, once a youth had been released from detention. The types of formal and informal dispositions are summarized as follows:

TYPES OF DISPOSITIONS	
FORMAL	INFORMAL
1. Commitment to a Public Juvenile Delinquency Institution	1. Dismissed
2. Court Custody - Formal Probation	2. Warned
3. Private Agency or Home	3. Held Open or Pending
4. Deferred Commitment or Suspended Sentence	4. Informal Probation
5. Other	5. Referred or Return Runaway
	6. Temporary Custody
	7. Other

It was expected that detained youth would be more likely to have been dealt with formally than those youth who had not been detained. Overall, this was true for status offenses, but not for delinquencies. Only five percent of all dispositions were formal. But the probability that a status offender would be dealt with formally was three times greater for detainees than non-detainees. No such difference existed for delinquents. When this relationship was controlled for sex, the same pattern prevailed for status offenders - formal dispositions were more likely for both male and female detainees. However, for delinquents, female detainees were twice as likely to be formally disposed of than non-detainees, whereas, detention had no bearing on the type of disposition for males.

Where a youth does not present a clear danger to himself or to society, it would appear detention is unnecessary. What is disturbing is that even though informal dispositions are desirable, in nine out of ten cases of detention, such action was taken on the basis of informal dispositions. This usually involved an overnight stay in jail. Taken further, it would appear that such practices may not now be wholly legal in light of the Montana Youth Court Act which couches its language on detention in terms of an impending petition being filed.

The data are not easily productive of consideration of questions concerning what types, combinations, or histories of previous offenses had a bearing on whether dispositions were formal or informal. However, the data did indicate that female detained offenders had the greater probability of formal disposition than any other category.

Summary

As was noted in the first part of this chapter, the incomplete-

Table 6

DISPOSITIONS OF ALL YOUTH

	STATUS				DELINQUENT				COMBINED	
	DETAINED		NOT DETAINED		DETAINED		NOT DETAINED		#	%
	#	%	#	%	#	%	#	%		
INFORMAL	1174	91	2387	97	814	94	2963	94	7338	95
FORMAL	111	9	80	3	53	6	180	6	424	5
TOTAL	1285	100	2467	100	867	100	3143	100	7762	100

DISPOSITION OF FEMALES

	STATUS				DELINQUENT				COMBINED	
	DETAINED		NOT DETAINED		DETAINED		NOT DETAINED		#	%
	#	%	#	%	#	%	#	%		
INFORMAL	505	88	911	96	113	87	481	95	2010	95
FORMAL	67	12	34	4	17	13	23	5	141	7
TOTAL	572	100	945	100	130	100	504	100	2151	100

DISPOSITION OF MALES

	STATUS				DELINQUENT				COMBINED	
	DETAINED		NOT DETAINED		DETAINED		NOT DETAINED		#	%
	#	%	#	%	#	%	#	%		
INFORMAL	669	94	1476	97	701	95	2482	94	5194	93
FORMAL	44	6	46	3	36	5	157	6	417	7
TOTAL	713	100	1522	100	737	100	2639	100	5611	100

ness, measurement deficiencies, and the duplicative nature of the available data did not permit a more detailed analysis. It is hoped that the new data system being developed by probation officers and the Board of Crime Control will be a better quality and will have greater retrieval capabilities.

However, the major patterns derived from the 1974 data are important. There is little question that the major population at risk in terms of overnight jail detention were status offenders. The major offense for which all youth were detained was runaway (even though the most frequent offense for boys was burglary).

If the patterns described above persisted in 1975 and into 1976, then more thoughtful consideration of alternatives to detention for status offenders, and runaways in particular, needs to be undertaken. However, unless law enforcement agencies are involved in this consideration, creating such alternatives would be premature, since law enforcement agencies are the major source of referrals.

One other major point is the high percentage of detained youth in every category who were informally disposed of on release. The appropriateness of detention in cases where court action will not take place must be seriously questioned. It would appear that tighter screening of offenders at the point of intake, along with a greater variety of alternatives, would do much to correct this situation. Reductions in appropriately detained youth can only take place when a total systems-wide approach is taken to the problem.

SECTION 2. YOUTH REFERRED TO PROBATION IN 1975

Limitations of 1975 Data

Some of the limitations of this data have been specified in the previous section. Additional limitations resulted in the inability to sufficiently analyze 1975 data. These additional limitations are as follows:

- (1) Some jurisdictions began reporting their statistics to a new information system being implemented by the Montana Board of Crime Control. This system was not able to retrieve the data at the time of this report. All data was manually retrieved and therefore, only total numbers of offenses and youth detained can be reported.
- (2) Some jurisdictions only partially reported their statistics to the MBCC system. An attempt was made to gather the missing information, but, due to the varying records kept, totals of offenses and youth detained were the only comparable data.
- (3) Some juvenile information was not kept in any retrievable manner which necessitated "educated guesses."

The following data presented is less than the actual number of youth referred to probation and number of youth detained. The information for 1975 that is available is as follows:

TOTAL REFERRALS TO PROBATION = 11,787 youth

TOTAL NUMBER OF YOUTH DETAINED = 3,434

TOTAL NUMBER OF DAYS OF DETENTION = 9,019.5

AVERAGE LENGTH OF DETENTION = 2.63 days

PERCENTAGE OF REFERRALS DETAINED = 29.13

(PERCENTAGE OF YOUTH DETAINED FOR STATUS
OFFENDERS = 47% Status Offenders*)

* This is a rough figure derived from those jurisdictions that provided status/delinquent breakdowns

The following table presents the 1974/1975 comparisons:

	<u>1974</u>	<u>1975</u>	<u>% INCREASE</u>
Total Referrals to Probation	7,762	11,787	52
Total No. of Youth Detained	1,994*	3,434	72
Total No. of Detention Days	4,848	9,019.5	86
Average Length of Detention	2.43	2.63	8
Percentage of Referrals Detained	26.00*	29.13	12

*These figures have been adjusted to exclude those youth whose care pending disposition was reported as "other"

These statistics represent data collected from 79 percent of the counties in Montana, which include 93 percent of Montana's total population (according to population projects for 1974).

Summary of Statistics

The 1975 Youth Court statistics indicate a substantial increase in referrals and the use of detention. The increase in number of youth detained (72%) and in the number of days of detention (86%), far exceeds the increase in referrals to the Youth Courts (52%).

Of the statistics available which separated status offenders detained from delinquent offenders detained, 47 percent of the youth detained were status offenders. A few dependent/neglected youth were detained as well as "self-referrals." The Youth Court Act specifically prohibits the placement of youth in need of care in county jails. One should also question the use of jails for youth requesting such a placement.

CHAPTER II

PHILOSOPHY

SECTION 1. GENERAL OVERVIEW

The Declaration of Purpose of the Montana Youth Court Act (10-1202) expresses the following legislative intent:

- (1) to preserve the unity and welfare of the family whenever possible, and to provide for the care, protection and wholesome mental and physical development of a youth coming within the provisions of the Montana Youth Court Act;
- (2) to remove from youth committing violations of the law the element of retribution and to substitute therefore a program of supervision, care and rehabilitation;
- (3) to achieve the purposes of (1) and (2) of this section in a family environment whenever possible, separating the youth from his parents only when necessary for the welfare of the youth or for the safety and protection of the community;
- (4) to provide judicial procedures in which the parties are assured a fair hearing and recognition and enforcement of their constitutional and statutory rights.

It is under this declaration of purpose that 1,944 youth were detained in jail in 1974 and 3,434 youth were detained in jail in 1975. The percentage of referrals to probation who were detained for 1974 and 1975 were respectively 26.00 and 29.13, as compared with a recommended percentage of 10.00. Jailing of Montana youth would not be encouraged under Section (1), since Montana jails certainly do not "provide for the care, protection and wholesome mental and physical development of a youth." Montana jails also do not provide "a program of supervision, care and rehabilitation" as called for under Section (2) of the Act. Section (3) calls for the careful screening of youth before he/she is separated from the family environment; yet, in some jurisdictions, the screening takes

place after the initial detention of the youth occurs. Finally, Section (4) advocates due process of law for youth in Montana, but the statute itself only vaguely alludes to due process within the context of detention of a youth.

In its deliberations on a working "philosophy of detention," as requested by Senate Joint Resolution No. 22, the Steering Committee stayed within the parameters of the declaration of purpose as stated above. The Committee developed a philosophy which addresses these issues of detention and shelter as stated in 1973 by Rosemary C. Sarri, a nationally recognized juvenile justice researcher, author, and consultant:

Lack of resources, lack of effort in trying to develop alternatives to detention, lack of accountability by decision-makers, and lack of adequate information systems that could monitor the jailing of juveniles and the reasons for detention, all contribute to the persistent use of frequent and unnecessary incarceration . . . Also of importance in controlling detention are the statutory provisions governing detention hearings, time limits for holding juveniles, and purposes of detention hearings.

The following section will present the Steering Committee's working philosophy which was developed in response to SJR 22.

SECTION 2: PHILOSOPHY

The method and rationale of detaining and sheltering youth pending court action or execution of a court or administrative order has been one of the most neglected areas within the juvenile justice system. Recently however, the misuse, overuse, and unfair use of secure detention for those youth awaiting a juvenile court hearing has achieved national recognition and concern. The need is not for a step by step approach, but rather for the design of a comprehensive system that strikes a fine balance between crime prevention and juvenile protection while ensuring due process.

In order to provide clarity to this philosophical statement and to avoid the ever-present battle of semantics, definitions of detention and shelter care have been specified as well as the purposes of each. "Detention" is the temporary care of youth in physically restricting facilities pending court action or execution of a court or administrative order. The only purpose for detaining a youth should be:

- (1) to ensure the youth's appearance in court;
- (2) to await transfer to another jurisdiction; and,
- (3) to ensure the safety of the community.

The three purposes listed should be applied only if a preliminary decision has been made that there will be an adjudicatory hearing for the youth. If no hearing is planned, the youth should not be detained.

This is not intended to require formal processing of more youth in the juvenile justice system, but rather to ensure that only the more serious offenders who require such formal court action be subject to secure detention. Every effort should be made to divert youth from the juvenile justice system and to prevent their entrance or further penetration into that system.

"Shelter care" is the temporary care of youth in physically unrestricting facilities pending court action or execution of a court or administrative order. The only purposes for placing a youth in shelter care should be:

- (1) to allow the youth and his/her family the opportunity to address their problematic situation when it is not possible for the youth to remain at home;
- (2) to protect the youth from physical and/or emotional harm;
- (3) to prevent or deter the youth from immediate repetition of his/her troubling behavior;
- (4) to provide the opportunity for assessment of the youth and his/her environment;
- (5) to provide adequate time for case planning and disposition; and,
- (6) to intervene in a crisis situation and provide intensive services/attention that might alleviate the problem and reunite the family.

Although there are more stated purposes of shelter care than detention, shelter care also carries with it a societal imposed reduction in mobility for youth and, therefore, a loss of their constitutional rights. As much care must be taken to avoid the misuse and overuse of shelter care and other alternatives to detention, as with detention itself.

The creation of the juvenile justice system was a result of the belief that responsibility for one's behavior is directly proportional to the maturity of that individual. The juvenile justice system as it exists today uses an age limit to distinguish between the mature and immature offender. Segregation of youthful offenders should also occur in order to avoid the negative influence of and to provide protection from the more criminally sophisticated offenders.

Status offenders (runaways, incorrigibles, truants, liquor violators, curfew violators) should only be exposed to the juvenile justice system to receive the benefit of its services. Since none of these offenses should pose a threat to a community, status offenders should rarely, if ever, be held in detention. If release to a responsible adult is not possible, placement in shelter care should suffice, allowing "security" to be provided through varying degrees of supervision. These youth have allegedly committed a "social" offense which would not be considered an offense if the youth had reached adulthood; they should therefore, not be exposed to those individuals alleged to have been or in fact were involved in criminal activities.

Similarly, dependent, neglected, and abused youth should never be placed in detention, not only to avoid exposure to criminally involved individuals, but also to ensure appropriate care of these youth who are victims rather than offenders. In spite of the Youth Court Act's legal restraint on the use of detention for these youth, the practice has continued.

In order to further avoid the misuse of detention on the grounds that there is no other alternative available, shelter care facilities and services with varying degrees of restrictiveness and security should be developed. Every effort should be made to hold youth in the least restrictive alternative available while ensuring the safety of the community and the youth. Secure detention, which is most often jail, should not be the initial placement until other alternatives can be considered. It is also critical that those given responsibility for the development of pre-dispositional care programs ensure availability of less restrictive alternatives throughout Montana before building any "detention centers" which, like jails, will become the "only available placement" for far too many youth.

The unfair use of detention and its alternatives has gone unrecognized partially due to the lack of review and due process associated with the detention and shelter care procedures. No matter who makes the decision to detain or place a youth in shelter care, a hearing should occur immediately to determine if the detention or sheltering should continue.

At the hearing the decision-maker in the case has the responsibility to present to the Youth Court, for review, the reasons for making the original decision and any more recent information which might affect the continuance or dismissal of the detention or shelter situation. This review should allow the court, by virtue of its action and response, to establish and constantly amend its detention and shelter care practices and procedures.

In order to ensure quality detention and shelter care facilities and services, pre-dispositional and post-dispositional care of youth should be maintained separately. These two types of care have separate and distinct purposes and should not be combined within one facility in order to conserve resources. Financial concerns should not be allowed to overshadow quality of care. The post-dispositional delivery of services and residential care should not be interrupted or altered to serve the need for the temporary care of youth in crisis. In turn, temporary placement of a youth in a residential program designed for long-term adjustments often results in "conveniently" longer lengths of stay. The "youth in crisis" needs immediate attention and services, not often available in facilities providing for longer term placements.

Throughout the detention and shelter care system, the following concepts are of paramount importance:

-The basic concept of the state as "parens patrie" is still valid.

- Immature and mature offenders should be totally separated in any residential situation.
- Status offenders, whose behavior by definition is not threatening to a community, should not be held in detention except in highly unusual circumstances.
- The standard of the least restrictive alternative is viable and tends to serve in the best interests of both the youth and the community.
- Due process should always be afforded the youth involved and should include, but not be limited to, a detention or shelter care hearing with legal representation.
- Pre-dispositional and post-dispositional care of youth have separate and distinct purposes and should be maintained separately.

Great care should be taken that the system recommended on the following pages not be misused, overused, or unfairly used; that detention and shelter care only be employed when it is absolutely necessary; and that the decision to detain or shelter be constantly reviewed and monitored. This system will only be as good as the legislation that establishes it, as good as the judges who enforce it, and as good as the community resources that are made available to meet the special needs of youth. If the people of Montana do not ensure the quality of these elements, we will only be contributing to delinquency.

SECTION 3. CORRECTIVE STRATEGIES

In order to correct present deficiencies in regard to detention and shelter care and to prevent Montana Youth from being detained or sheltered in inappropriate or inadequate facilities, different types of strategies may be employed by this state.

There are several strategies that have been used in other states to reduce the overuse, misuse, and unfair use of secure detention or shelter care. Many of these strategies can also be viewed as alternatives to detention and will be discussed throughout this plan. The various strategies can be grouped under the following four headings: legal, administrative, organizational and programmatic. It is at the individual court jurisdiction that most alternative programs will be introduced, and, therefore measures to prevent their inappropriate application must be addressed there.

The legal strategies are statutorily based and procedural in nature. These include such matters as: the specification of options available to an arresting officer, the use of jails for the detention of youth, the specification of criteria or standards for the actual detention and shelter care decision, mandatory detention hearings with time limitations, and the provision of counsel for the youth at the detention or shelter care hearing. As with most legislation, these legal strategies are not self-implementing or consistently enforced.

Administrative strategies primarily consist of the implementation of the legal strategies just mentioned. Other such measures include the establishment of 24-hour, seven-day-a-week intake functions, the creation of rules and criteria governing the detention or shelter care decision, and the provision for periodic monitoring and review of actual detention and shelter care decisions.

Organizational strategies include all the necessary activities to place the full responsibility and accountability for detention and shelter care decisions on as few people as possible. This plan is proposing that the Youth Court, the Aftercare Bureau, and SRS (local county welfare department) be given this responsibility and accountability.

Programmatic strategies refer to the creation of non-secure alternatives for youth brought to the attention of the proposed detention and shelter care system. It is strongly suggested that non-secure alternatives be developed initially so that the actual need for secure detention can be established before this state expends the large amount of money necessary to provide adequate, humane secure care for its youth.

CHAPTER III

DETENTION/SHELTER CARE PROCESS AND PROCEDURE

SECTION 1. GENERAL OVERVIEW

There is no systematic statewide approach to detention and shelter care in Montana. The process by which youth became involved in detention and shelter care and procedures for such are completely dependent upon individual attitudes, agencies involved, and local resources available. The Montana Youth Court Act of 1974 (see Appendix 8) vaguely outlines the process leaving much to discretion and causing a lack of uniformity and consistency in the use of detention and shelter care in Montana. The statutes carefully specify the due process procedures regarding arrest and apprehension of youth, and specify the procedures for adjudicating a youth for the specific dispositions available; these same statutes do not, however, address the due process provisions necessary at the detention stage of the juvenile justice system.

Detention Procedures

One of the concerns often raised by those examining the detention and shelter care situation is that there are many youth who are detained unnecessarily. It is said that detention is far too accessible and is often the only resource available to solve a problem which could more effectively be handled without exposing the youth to the deleterious effects of incarceration. The statutes should carefully and clearly set policies for detention and shelter care in Montana. These types of policies usually need to be fairly broad and general in order to be applicable through all jurisdictions. Individual jurisdictions should then exercise the discretion, if not afforded by law to interpret the

policies into written procedures which would then guide and direct the actual practice of detention and shelter care in that particular jurisdiction. Only half of the Juvenile Probation Offices in Montana have written procedures regarding detention* of youth. Most of these only quote the Montana Youth Court Act which reads as follows:

10-1212. Detention* of youth. A youth taken into custody shall not be detained prior to the hearing on the petition except when his detention or care is required to protect the person or property of others or of the youth; he may abscond or be removed from the jurisdiction of the court; he has no parent, guardian, or other person able to provide supervision and care for him and return him to the court when required; or an order for his detention has been made by the court pursuant to this act.

Due to the inclusion of the last phrase of this section, a youth may be detained for any reason as long as there is an order from the court. The next section in the statute (10-1213) allows for detention of a youth if "the peace officer believes, on reasonable grounds, that the youth must be held in custody." In order to establish a guide to decision-making and assure fair and equal treatment in detention and shelter care, criteria must be established and used statewide to determine if a youth should be detained or sheltered. The Youth Court should supplement the statewide criteria as is necessary in that jurisdiction. Section 2 of this chapter will suggest such criteria. The term "custody" and "taking into custody" must be explained and defined in the Youth Court Act in order to avoid current confusion in the process.

Designation of responsibility for detention and shelter care

*The statute uses the term "detention" to mean the taking of custody of a youth whether in physically restrictive or unrestrictive facilities.

decision-making is another issue of concern raised by this study.

In regard to the initial decision-making responsibility for detention, the Youth Court Act vaguely addresses the issue as follows:

- (1) Whenever the peace officer believes, on reasonable grounds, that the youth must be held in custody, then the peace officer must notify the probation officer without undue delay. 10-1213(2)
- (2) A youth taken into custody shall not be detained prior to the hearing on the petition except when: ... an order for his detention has been made by the court pursuant to this act. 10-1212
- (3) The probation officer in the conduct of the preliminary inquiry shall: ... (c) determine, if the youth is in detention or custody, whether such detention or custody should be continued. 10-1209(4)

(1) and (2) indicate that peace officers and the Youth Court may decide to detain youth and that if a peace officer makes the determination, the probation officer must be notified of the decision "without undue delay." (3) indicates that after the youth has been detained, the probation officer has the discretion to continue the detention or release the youth. The staff of the Bureau of Aftercare have the authority to order the detention of any youth under the supervision of or in the custody of the Department of Institutions. A survey of chief probation officers in Montana (see Appendix 1, Questionnaire #2) indicated that almost all of the Youth Courts through their probation offices have assumed responsibility for detained youth. The survey indicated that in nine out of the sixteen responding jurisdictions, the probation officers make all of the initial decisions to detain the majority of these initial decisions. The law should strongly and clearly designate the appropriate detention and shelter decision-making agencies and assign those agencies

the responsibility to make such decisions. The next section of this chapter sets forth this study's recommendations.

Intake

One of the questions raised is how many youth are detained unnecessarily because of rigid "eight to five" working schedules for detention decision-makers. After the regular working hours, a probation officer may be assigned to be "on call" to law enforcement agencies for referral or detention purposes. Many decisions regarding the detention of a youth are made over the telephone in the form of a notification of law enforcement's decision. The youth then waits until the next morning to receive full consideration of possible alternatives to secure custody by the probation office. Law enforcement agencies usually do not have the manpower to provide crisis intervention which might alleviate the necessity for detention until an appropriate referral can be made. The juvenile statutes do not identify the need for an "intake function" for detention and shelter care services or crisis intervention services. Twenty-four hour intake services would most likely reduce the number of youth detained and sheltered as well as offer more effective services for youth, their families, law enforcement agencies, and the community. The Steering Committee's recommendations on this issue are contained in Section 2 of this Chapter.

Detention Hearing and Time Limitations

The MYCA allows for "a hearing in order to determine if the circumstances of the case require such custody, and the form the custody should take" upon "petition of the youth, his parents or guardian or his counsel" 10-1216(5) . However, it is not required that the youth, his/her parents, or attorney be notified of this procedure.

A youth may be detained for five days prior to the filing of a petition and, if unaware of the right to request a "detention hearing," could be detained for seven days when no court action was anticipated. If a petition is filed, the youth can be detained, awaiting an adjudicatory hearing, until 15 days after summons has been served. There is no maximum time limitation on services of summons. Section 2 of this chapter recommends a mandatory detention and shelter care hearing as well as very specific time limitations for these, and other, situations. (See Appendix 9 for further critique of the Youth Court Act)

Dispositional Incarceration

Dispositional placement of youth in local jails has been informally discussed throughout Montana and the nation recently. This use of jail has occurred in Montana, even though there is no provision for jail placement as a disposition available to the Youth Court in formal proceedings or to the Probation Office in informal adjustments or consent decrees. The Steering Committee strongly suggests that this issue be addressed by the juvenile justice system and the legislature and that the statutes reflect their decisions. Incarceration as a sample of "what will happen to you if you don't change" as a part of the pre-adjudicatory stage must cease.

SECTION 2. DETENTION AND SHELTER CARE DECISION-MAKING PROCESS

For the purposes of this description of the detention and shelter care decision-making process, unless otherwise stated:

- (1) "Detention" is defined as the temporary care of youth in physically restricting facilities pending court action or execution of a court or administrative order.
- (2) "Shelter Care" is defined as the temporary care of youth in physically unrestricting facilities pending court action or execution of a court or administrative order.
- (3) "Assessment" is defined as the investigative and information gathering activities that occur prior to any decision regarding a youth's situation. Assessments include, but are not limited to, interviews with family members, relatives, friends, involved agency personnel, and witnesses, school and behavior reports, and any evaluation of the youth and family.
- (4) "Referral Source(s)" is defined as any one or all of the following agencies or persons who may refer youth to the detention and shelter care system: law enforcement agencies, parents or guardians of the youth involved, school officials, and community youth service organizations.

(5) "Detention and/or Shelter Care Decision-Maker(s)"

is defined as any one or all of the following agencies who are responsible for initial detention and shelter care decisions for youth: the Department of Social and Rehabilitation Services, the Juvenile Probation Office, the Aftercare Bureau, and/or others as authorized by the Youth Court.

Referral to the Detention and Shelter Care System:

There are four types of youth who are likely to become involved in the detention and shelter care system.

They are:

- (1) alleged 'youth in need of care'
- (2) alleged 'youth in need of supervision'
- (3) alleged 'delinquent youth'
- (4) alleged 'Aftercare violators'

When a youth's behavior or situation has brought him/her to the attention of one of the primary referral sources, an assessment of the youth and his/her needs should occur. During this initial assessment, the agency or persons involved must consider many factors including whether or not the youth should remain in his/her living situation. A referral for detention or shelter care could be considered if the youth meets the criteria as established in Chapter II, pages 28-29.

If additional criteria are established by the Youth Court, they should also be considered.

Usually the problematic situation can be alleviated without a change in the youth's place of residence. However, if it is believed that the youth should be held in detention or shelter care after consideration of the above-mentioned criteria, a referral must be made to the appropriate detention and/or shelter care decision-making agency. A written complaint specifying the allegations and reasons for possible detention or shelter care should accompany or immediately follow the referral.

Decision to Detain or Shelter

The agencies responsible for initial detention and shelter care decisions for the various types of youth are:

(1) local Department of Social and Rehabilitation Services (SRS) through local county welfare personnel for alleged 'youth in need of care;'

(2) local Youth Court personnel for alleged 'youth in need of supervision; and alleged 'delinquency youth;' and,

(3) Department of Institutions through local Aftercare Bureau personnel for alleged 'Aftercare violators.'

Upon referral from any of the primary referral agencies, the appropriate decision-making agency is responsible for a thorough investigation of the complaint and must again assess the youth's situation. Every attempt must be made to locate the youth's parents or guardian and to include them in the assessment process. The detention and shelter care admission criteria to be established by the Youth Court,

along with state-established criteria, will outline the factors to be considered in order to determine if detention or shelter care is necessary. State-established criteria for detention determination of a youth should consist of these basic factors:

(1) whether there is reasonable cause to believe that the youth had committed or was committing an offense.

(Gerstein v. Pugh, U.S. Supreme Court)

(2) whether detention is necessary for the safety of the community;

(3) whether there are adequate assurances that the youth would be present for further court or administrative action;

(4) whether the youth is pending transfer to another jurisdiction.

State-established criteria for shelter care determination should consist of these basic factors:

(1) whether the youth and his/her family needs shelter care to address their problematic situation when it is not possible for the youth to remain at home;

(2) whether the youth needs to be protected from physical or emotional harm;

(3) whether the youth needs to be deterred or prevented from immediate repetition of his/her troubling behavior;

(4) whether there is need to shelter in order to assess the youth and his/her environment;

(5) whether there is need for shelter care in order to provide adequate time for case planning and disposition; and/or

(6) whether shelter care is necessary to intervene in a crisis situation and provide intensive services/attention that might alleviate the problem and reunite the family.

If release to a responsible adult is not possible and additional supervision of the youth in his/her own home would not be adequate, the least restrictive suitable placement available must be utilized. If a youth is not considered dangerous to the community or is not awaiting transfer to another jurisdiction, he/she must be placed in shelter care rather than in detention unless evidence is available to justify detention on grounds that he/she may abscond. Previous failure to appear in court and the youth's own testimony regarding his/her anticipated behavior may be considered as supporting evidence. Any youth who appears or is known to have suicidal tendencies or will probably need medical attention due to alcohol or drug abuse must not be detained in a local jail or lock-up, but rather should be immediately referred to a local hospital with appropriate facilities.

The detention and/or shelter care decision-makers have the responsibility to make the actual decision to detain or shelter a youth as well as the resulting type of placement if such action is deemed necessary. Every effort must be made by these agencies to assure that only the most serious alleged offenders are exposed to detention and that youth are separated from their families and homes only when absolutely necessary.

The agencies responsible for initial detention and

shelter care decisions should provide 24-hour capability for such decision making. In larger jurisdictions, such as Judicial Districts #4, #8, and #13 (especially Missoula, Cascade and Yellowstone Counties), the Department of SRS and the Juvenile Probation Offices should maintain "intake units," staffed with specially qualified personnel. In smaller jurisdictions or counties, regular agency staff could perform this function. Intake services for initial detention and shelter care decision-making could be made available through:

- (a) personnel employed beyond the usual office hours;
- (b) personnel "on call";
- (c) written agreements between the detention and/or shelter care decision-making agencies to utilize a centralized intake unit which would be supported by all three agencies;
- (d) written agreements with law enforcement agencies regarding the proper use of detention and shelter care as established by the decision-making agencies and the Youth Court when intake personnel are not available; or,
- (e) some combination of these methods.

It is recommended that the intake services provided by SRS, Juvenile Probation Offices, and the Bureau of Aftercare include staff who will be physically present (not merely on the phone) when a youth is referred for possible detention or shelter care. This is necessary as the intake services should include crisis intervention counseling for the youth and his/her family and allow for possible diversion from the detention/shelter care system.

Petitions

By definition, detention and shelter care placements should only occur if court action or transfer to another jurisdiction is anticipated. A petition alleging the youth to be delinquent, in need of supervision, in need of care, or in violation of his/her Aftercare agreement should be filed immediately. If a youth is being held for other reasons, such as transfer to another jurisdiction, evidence supporting the youth's status must be obtained in order to justify the detention or sheltering of the youth. A petition alleging the youth to be delinquent, in need of supervision, or in need of care may be filed by either the county attorney or the chief juvenile probation officer.

In the case of a parental agreement affected by SRS, the agreement shall be considered a petition (for the purposes of this discussion) and the resulting shelter care shall be considered as a post-dispositional placement. The Steering Committee urges, however, that the youth voluntarily sign the agreement if the case is not taken before a district judge. If the youth is not agreeable to the placement, it should be taken before a district judge for disposition where the youth should be represented by legal counsel.

Youth Court Review and Action

Any youth detained or sheltered must receive a detention or shelter care hearing before a district judge. This hearing shall be held without unnecessary delay and within 24-hours (excluding weekends and judicial holidays) of the time of detention, unless there is good cause for extension beyond 24-hours in which case the judge may allow an extension of 24-

hours for that particular case.

A youth shall be represented by counsel during a detention or shelter care hearing. If the youth is unable to provide his/her own counsel, counsel shall be provided. The youth may not waive this provision of counsel.

Reasonable Grounds to Believe & Filing of a Petition

During such hearing the judge shall consider if there is reasonable grounds to believe that: 1) the youth committed an offense which (a) would be criminal if he/she were an adult, or (b) would not be criminal if he/she were an adult; or 2) the youth is in violation of an aftercare agreement; or 3) the youth must be detained for transfer to another jurisdiction; or 4) the youth's safety and welfare is at substantial risk if he/she is not sheltered.

If the judge does not find reasonable grounds as per above, the hearing shall be terminated and the youth shall be released immediately. However, if the judge does find reasonable grounds, a determination shall be made as to whether a petition alleging the youth to be delinquent, in need of supervision, in need of care, or alleging some other matter justifying detention or shelter care (1) has been filed or (2) will be filed within 48-hours of the time of detention. If filing of such a petition is not intended within 48-hours of the time of detention, the youth shall be released immediately. In the case of a youth alleged to have violated his/her Aftercare agreement, a notice of alleged violation must be signed within 24-hours.

The filing of a petition is not necessary in the case of transfer to another jurisdiction.

Continuation of Detention or Shelter Care

If a petition has been filed or is intended within the 48-hour time limitation, or a notice of alleged After-care violation, the judge shall determine if it is necessary to continue the detention or shelter care of the youth pending adjudication of the petition. Considerations for making this determination shall be: 1) whether detention or shelter care is necessary for the safety of the youth or the community; 2) whether there are adequate assurances that the youth will be present for further court or administrative action; and 3) if detention or shelter care appears necessary in 1) or 2) above, the least restrictive residential placement available to meet the needs of the youth shall be used.

Only those youth who are considered by the judge to be a danger to the community or are likely to abscond prior to further court or administrative action may be ordered to be placed in secure detention. Shelter care may be used to provide care for all youth meeting the above considerations. If detention or shelter care is found necessary, the judge shall order the detention or sheltering of the youth in a specific facility pending court or administrative action or transfer to another jurisdiction.

Extension of Petition Filing

If a youth is sheltered or detained and a petition has not been filed within 48-hours of the time of detention,

he/she shall be released at the end of the 48-hour period, unless the judge, on a showing of good cause, approves an extension of time to file. This extension may be up to 24 additional hours. A notice of alleged Aftercare violation must be signed within 24-hours of the time of detention in order to continue the detention or shelter care of the youth.

If the petition is not filed within the extended period of time or the notice of alleged violation is not signed within 24-hours, the youth shall be released immediately.

Adjudicatory and Dispositional Hearings

When the youth is being detained or sheltered pending an adjudicatory hearing, that hearing must be held within ten (10) days from the date of the detention or shelter care hearing. Delays shall be allowed only upon application of counsel for the youth. If a youth is detained or sheltered awaiting transfer to another jurisdiction, that transfer must be made with no unnecessary delay, and in any case within three (3) days of the time of detention. Any exception must be approved in writing by the Youth Court Judge.

If, at the adjudicatory hearing of a youth being detained or sheltered, the petition is dismissed for any reason, the youth shall be released immediately. If the petition is adjudicated and the dispositional hearing is not held immediately following the adjudicatory hearing, the Youth Court Judge shall determine the need to continue

detention or shelter care pending the dispositional hearing. To make this determination, the Youth Court Judge shall use the same considerations which apply to detention or shelter care pending the adjudicatory hearing. If detention or shelter care is to continue pending the dispositional hearing, the hearing shall be held within seven (7) days of the adjudicatory hearing. The judge may extend the time for the dispositional hearing up to a total of fifteen (15) days from the date of the adjudicatory hearing. Considerations for such an extension shall be limited to the need for more time for individual and specialized testing or for more time to resolve family difficulties which could result in a more adequate to less restrictive placement upon disposition.

Post-Dispositional Detention and Shelter Care

Post-disposition detention or shelter care of a youth awaiting execution of a court or administrative order must be commensurate with or less restrictive than the final disposition, and shall be specified in the order. For example, a youth may be continued in detention only if upon disposition he/she is ordered to a physically restricting facility such as a juvenile correctional institution. If the disposition order requires care in any physically unrestricting facility or program, or a return to the youth's home, he/she may be held only in a shelter care facility or program.

Post-dispositional detention of a youth awaiting execution of an order may not exceed two days. Post-dispositional care of a youth awaiting execution of an order in a shelter care facility or program may continue for only so long as necessary, but not longer than 30 days unless extended by the Youth Court Judge. Care of a youth awaiting execution of an order in a shelter care facility or program must be reviewed each week by the Youth Court Judge to assure that all necessary efforts are being made to carry out the order.

The preceding proposal is intended to afford Montana's youth consistency and due process throughout one of the most traumatic stages of the juvenile justice system (JJS). It is not meant to further bureaucratize or overburden the JJS. Hopefully, the establishment of a specific process, identification of criteria, and assurance of due process to Montana youth involved in this critical stage will provide more benefits to the youth and the communities than "bureaucratic red tape" to the juvenile justice system. Parens patriae is still valid and is meant to continue to exist within the above proposal.

Descriptions of similar attempts at detention hearings and intake services occurring presently in Montana can be found in Appendix 10.

CHAPTER IV

FACILITIES AND SERVICES

SECTION 1. OVERVIEW

Montana's facilities and services for detention and shelter care are fairly limited as far as variety is concerned. Presently, detention care is provided primarily by county jails throughout Montana. Shelter care is most often provided through use of a few foster homes, while six communities have "receiving homes" (shelter facilities for youth from infancy through teens) or "attention homes" (short-term group homes for teens), available. There are no facilities in Montana which are used exclusively for the care of youth pending court action or execution of a court or administrative order.

Detention

The case against the use of jails for children rests on the fact that youngsters of juvenile court age are still in the process of development and are still subject to change however large they may be physically or however sophisticated their behavior. To place them behind bars at a time when the whole world seems to turn against them and belief in themselves is shattered or distorted merely confirms the criminal role in which they see themselves. Jailing delinquent youngsters plays directly into their hands by giving them delinquency status among their peers. If they resent being treated like confirmed adult criminals, they may - and often do - strike back violently against society after their release. The public tends to ignore the fact that every youngster placed behind bars will return to the society which placed him there. (NCCD, 1961, p.3)

In 1975, 3,434 youth were incarcerated in county jails in Montana. There is no question that secure custody is necessary for some youth since communities have the right to immediate protection, and the Youth Court must have assurances of appearance if its obliga-

tions are to be carried out. Other jurisdictions, moreover, have the right to have youth held pending transfer back to their original court of jurisdiction.

However, many of these youth have been detained in county jails because there are no other alternatives available for temporary care in most communities. Youth who have committed status offenses (i.e., runaway, incorrigible, curfew, unsupervised, and truancy), account for 47 percent of the youth detained in 1975. Youth in need of care, often referred to as dependent and neglected were occasionally detained in jail last year in spite of the distinct prohibition against such action in the Montana Youth Court Act of 1974 (10-1214).

A 1971 Jail Survey, completed by the Governor's Crime Control Commission (now the Board of Crime Control) revealed that little or nothing has been done to upgrade most detention facilities in Montana since their original construction. Transcripts from the "Hearings before the Subcommittee to Investigate Juvenile Delinquency" of the Ninety-Third Congress states that the Montana Jail Survey "highlights the inadequate physical conditions of nearly every jail in that state. Furthermore, these conditions tended on the average to be even worse for juveniles because only a relatively small proportion of the total jail population in that state consisted of juveniles."

Since the completion of the 1971 study, however, there have been some improvements. The following counties and towns have substantially constructed or remodeled their facilities: Toole County, Livingston, Park County, Ravalli County, Browning (juvenile facility for the reservation), Beaverhead County, Butte, Flathead County, Custer County, and Wolf Point/Roosevelt County. Planning construction or remodeling of jail facilities is constant; however, lack of

financial resources is also constant. In those jail facilities which have been recently constructed or remodeled, little has been done to improve the detention services available to youth during their incarceration. The following conditions prevail throughout the county jails in Montana, whether old or new:

- youth often have contact with adult prisoners during the booking procedure;
- youth can freely converse with adult prisoners;
- youth are often served meals by adult prisoners (trustees);
- recreational and educational activities are nonexistent;
- some juvenile quarters are without showers;
- medical examinations are not routine;
- jail personnel are not specially trained to deal with incarcerated youth who are generally in crisis and in need of attention as well as security;
- matrons in smaller jails are called in to search the female juvenile prisoners, but do not always remain at the facility to supervise and monitor the prisoner (this results in either no supervision or supervision of juvenile females by male jail personnel); and,
- most of the county jails in which youth are held are well below standard for fire and life safety, and should not be occupied by adults or juveniles.

This study supports and urges the remedy of each of these present conditions so that necessary secure custody of youth may be available in commonly acceptable circumstances.

Availability and Costs

1. Detention - Overuse of detention may occur due to the high degree of availability of county jails and the economics of using the county jail facility, insofar as each county maintains a county

jail facility. However, some of the smaller facilities lack juvenile quarters. Only a few communities have developed shelter care facilities or programs such as receiving homes, foster homes, or Attention Homes. The placement of youth in the local jail does not cost the local juvenile justice agencies. Placement of youth in shelter facilities or programs, if available, costs the placing agency from \$3 per youth day to \$8.50 per youth day.

County jails do levy a charge for their services for "outside agencies," such as Federal Probation and Parole, Immigration, and other jurisdictions. This charge is usually \$5 per day, which, according to a sample of budgets and costs of Montana jails (see Appendix 2), is not an accurate reflection of the actual cost of secure detention for adults or juveniles. The cost obtained from sampling small to large county jails ranges from \$5.36 per prisoner day to \$35.28 per prisoner day, with an average of \$15.60 per prisoner day. These costs do not include expenses such as facility space, fringe benefits, uniforms, and other miscellaneous expenses.

2. Shelter Care Programs and Facilities - These have usually been considered as supplemental to the juvenile justice system and the use of county jails. Most established shelter care services exist outside of the juvenile justice system and are operated by private non-profit organizations. Donations, federal funds, and "custody payments" contribute to the operations of the various programs. The Youth Court and the Departments of Institutions and SRS must pay for placement of youth in these programs. Very often, severe budget limitations exist and the result is youth being detained in county jails when security is not necessary. Agencies' budgetary constraints also prohibit shelter care programs from charging for the actual cost of care. Therefore, monies must be "hustled" to

supplement custody payments. Because of competition for community resources from services organizations, United Way, private citizens, foundations, and federal sources, many shelter care programs fade away or are never developed when necessary.

The only shelter care programs presently available to SRS, Institutions and Youth Courts are:

- (1) three receiving homes, located in Ronan, Billings, and Great Falls, operated by community-based, private, non-profit organizations, licensed for temporary care of infants through teenagers;
- (2) three "Attention Home" programs, located in Butte, Anaconda, and Helena, providing temporary care of teenage youth for up to 90 days;
- (3) a voluntary foster home program, located in Billings, operated with federal funds, for the exclusive care of runaways;
- (4) a shelter facility in Great Falls for runaways; and,
- (5) a few foster homes scattered around the state, licensed by SRS to provide emergency care for teenagers.

Due to the crisis situation of a youth in need of shelter and the need for immediate, intensive attention for these youth, adequacy of care in these facilities is often questioned by the agencies responsible for the youth.

Receiving homes provide care for all children from infants and pre-schoolers on up. These facilities cannot be expected at their present level of funding and staffing to provide for the immediate needs of sheltered youth in crisis. Licensed capacities and charges for these programs at present are: 1) Ronan, 12 beds at \$5 per youth day; 2) Billings, 28 beds at \$6.37 per youth day; and, 3) Great Falls, 15 beds at \$7.33 per youth day (see Appendix 6).

The three Attention Homes in the state are licensed to provide care for 8 to 12 teenage youth. These programs were initiated with

federal funds requiring local matching monies and must, within 3 years, be totally supported locally. These facilities provide:

- (1) an alternative to detention;
- (2) time for the youth and family to make adjustments with the assistance of a counselor from SRS, Aftercare, or the Youth Court;
- (3) case planning time to encourage more adequate long-term placements of youth.

The facilities are staffed by live-in houseparents, relief houseparents, and a director or administrator. Support services for the youth are primarily obtained through the placing agency. (In Anaconda, the facility obtains additional supportive services from the community at large.) The charges, to the placing agencies, for temporary care of youth in these Attention Homes range from \$6 per day to \$6.75 per day. All of these programs also provide care for runaways under the Runaway Youth Act which provides additional funds for such services (see Appendix 6).

The voluntary foster home program in Billings, called "Tumbleweed," offers temporary residential services for runaways in the Billings area. The foster homes, numbering less than ten, receive no payment for their services. The administrator of the program is supported with federal Runaway Youth Act funds. The intake function is provided by the local Youth Court intake staff.

The few foster homes in Montana used for shelter care of teenage youth are usually licensed and supported by SRS. Some Youth Courts have recruited a few local families to provide this service for the court and are approved and supported by the court. The charge for temporary foster home care is usually \$5 per day. The primary reasons for the lack of this resource is that: (1) the youth in need of this service does not readily adjust to the family

situation and needs more attention than the normal family is able to give; (2) the financial and casework support is not adequate; and, (3) so few families are available as compared to the need and conditions that exist, the result being a high foster family turnover rate.

SECTION 2: RECOMMENDED TYPES AND DEFINITIONS OF DETENTION AND
SHELTER CARE FACILITIES

This section offers proposed solutions to the
following problems:

- 1) lack of immediate screening and intake to the
detention and shelter care system;
- 2) lack of adequate alternatives to detention;
- 3) lack of detention services for youth which pro-
vide audio, visual, and physical separation
from adult offenders.

Also of primary concern is the access to technical
assistance for the planning, development, and establish-
ment, of such programs at the State and local levels.

Establishment of 24-Hour Intake Services

To suddenly separate a growing youngster from his
roots in the community, however unstable these roots
may be, is a serious matter. Ultimate responsibility
for detention rests with the court, which must take
the initiative for developing sound and consistent
policies. Where two or more (referral) agencies
operate within a single court jurisdiction and have
widely differing referral and detention practices,
court initiative in controlling detention admissions,
both before and after court hours, is especially
important. (NCCD, 1961)

The effectiveness of the court's control over deten-
tion and shelter care depends not on petition filing
procedures, preliminary hearings, or orders to "hold" or
release -- checks that are necessary but that usually
occur after the youth has already been detained or
sheltered -- but rather on prompt intake service at the
point of police referral for detention. The Court's

obligation and commitment to effective detention intake control
during and after regular working hours is crucial.

A significant number of the 3,192 youth detained in Montana jails last year experienced incarceration in adult jails for less than 24-hours. This raises the questions, if adequate intake services were available at the time of detention, would these youth have been detained at all? Only 5 percent of the 1,994 youth detained in 1974 were formally handled by the court. If formal court action was not necessary, was detention? In 1974, 58 percent of the youth detained in jail were status offenders and a few detainees were reported as dependent, neglected youth. Were these youth such a threat to the community that detention was necessary and does incarceration in a jail also housing adult felons promote rehabilitative or productive effects on these youth? (See Chapter I for statistics)

It is strongly recommended that the proposed Montana detention and shelter care system include 24-hour intake and decision-making capabilities so that Montana youth may be diverted from the detention and shelter care system and experience.

In Chapter III, it was proposed that the Youth Court, SRS, and Institutions be given full responsibility for the initial detention and/or shelter care decision for youth as follows:

- 1) alleged 'youth in need of care' - SRS through local county welfare services;
- 2) alleged 'youth in need of supervision' and alleged 'delinquent youth' - the Youth Court;

3) alleged 'Aftercare violators' - the Bureau of Aftercare through its local counselors.

In order to make all initial detention and shelter care decisions, these agencies must provide staff accessibility on a 24-hour basis as most youth are presently detained or sheltered after regular working hours, on weekends, or holidays.

The intake function is distinct from court preparation, court appearance, and supervision as performed by personnel within the Youth Court, SRS, and Institutions. This intake function should be identified as a separate and distinct activity and assigned to specialized staff, whenever possible.

Intake services should be formally organized to receive and screen all youth referred by police, public and private agencies, parents, and other sources. The objective of such services should be to divert as many youth as possible from the juvenile justice system and formal processing and refer for court action only those for whom such action is deemed necessary. Intake services should function in close cooperation with other private and public agencies, such as private and public youth, family, and mental health services. Finally, intake services should be able to purchase needed services, including alternatives to detention (See Appendix 11 for intake staff responsibilities).

There are several different ways to assure 24-hour capability for detention and shelter care decision-making.

First, recommended for the larger jurisdictions centered

in Billings, Great Falls, and Missoula, is the provision of specialized intake personnel to be on duty 24-hours a day, seven days a week. These staff would be the "gate-keepers" of the Youth Court and the detention and shelter care system. In these larger jurisdictions where the three responsible agencies -- Youth Court, SRS, and Aftercare -- handle large numbers of youth in trouble, a centralized intake unit should be established. The financial support for the unit could be shared and therefore be much more economical than providing three separate intake functions. With a centralized intake unit, more highly qualified staff could be "purchased" by the pooling of resources. This employment of intake staff after regular work hours is recommended for, but not limited to, the large jurisdictions.

Secondly, intake staff should be "on call" at all hours to screen detention and shelter care referrals and to make appropriate decisions. These intake staff should be responsible for being physically present with the referral sources, the youth, his/her parents, and anyone else involved in the case to assess the situation. Using state established criteria and additional criteria developed by the Youth Court, the intake personnel are responsible for making the initial decision to detain and shelter the youth, as well as those related decisions previously discussed in this section.

The third type of method of providing 24-hour intake services might be for the court to make a formal agreement with specific law enforcement personnel for such services. The agreement should include the criteria to be used to make the detention or shelter care decision, both state and locally established, as well as specific procedures to be followed.

The Youth Court will be able to monitor the quality of LIBRARY

these decisions through the detention and shelter care hearings.

A combination of the recommendations above might satisfy individual jurisdiction's unique situations. It is strongly urged that the critical detention or shelter care decision not be made simply on the basis of a telephone conversation. The intake staff must be physically present to adequately assess the situation and the detention and shelter care system whenever possible. If smaller, more rural jurisdictions desire to arrange for a specific law enforcement officer to provide intake services, the agency responsible for the initial decisions should be contacted immediately and should provide services to any youth detained or sheltered the following day.

Recommended Shelter Care Facilities and Services

The recommended types of shelter care fall into four categories:

- 1) Home Supervision consists of providing the youth and his/her family with additional supervision and support while the youth remains in his/her own home. This alternative is designed to avoid separating the youth from his/her normal environment as would be the case through regular shelter care. Home supervision can be intensive and can be provided by a paraprofessional who is in constant contact with the youth. It can also be minimal and be provided by a paraprofessional who contacts the youth and family several times per day and who supervises no

more than five youth in this manner. Massachusetts and Missouri are forerunners in such types of service (see Appendix 3). Three pilot home supervision programs are recommended by this plan, although other communities may certainly provide such services through contracts and use of the recommended payment for purchasing such services (see Section 3 of this Chapter).

2) Emergency Shelter Care includes, but is not limited to, traditional short-term foster care. Emergency shelter care varies in degree of supervision from the traditional foster care in a family to the "proctor" type of care which is provided by a single person who provides 24-hour supervision of a youth in the proctor's home (see Appendix 4).

3) Shelter Facilities include all types of residential group living for youth. These can range from the smaller group shelter facilities housing four to six youth up to larger, twelve bed units. Staffing ranges from live-in houseparents, support staff, and professional counselors to around-the-clock awake supervision with personnel on a shift basis. It is strongly suggested that creative use be made of staff in order to provide all-night supervision or closely approximated shift staff capabilities.

4) Institutional Shelter including those facilities which provide care for more than 12 youth but less than 20 youth. These facilities are similar to Montana's "receiving homes." This type of shelter care is only conditionally recommended due to the size of the facilities involved and the varieties of youth served. It

is believed that teenage youth in need of shelter care could be more adequately served in smaller numbers with more staff supervision and attention.

Due to the nature and size of Montana and our need for shelter care services, it is recommended that:

- each of the larger jurisdictions develop a shelter facility in their area to serve as large a geographic area as possible;
- home supervision programs be developed in all jurisdictions where applicable;
- emergency shelter care, particularly the "proctor" type, be adapted throughout all Montana jurisdictions;
- wherever possible, shelter care services should be available to the surrounding, more rural areas; and
- budgets for transportation of youth be expanded to allow utilization of shelter care services in neighboring communities.

It should be noted that shelter care services as alternative programs should not be instituted without attention first being given to the control of intake and the establishment of appropriate criteria to govern the detention and shelter care decision. Another potentially dysfunctional consequence that should be avoided is a longer length of stay for youth in alternative shelter care facilities than for those youth detained in secure facilities. Some youth stay in shelter care programs five or ten times longer than if they would had they been placed in detention. Use of alternative shelter care programs for youth who would not ordinarily be detained or formally processed by the court are very common elsewhere and must be consciously avoided in Montana.

Purchase of Services for Shelter Care

The Steering Committee recommends that shelter care services be purchased by the agencies responsible for youth needing such services. The purpose of acquiring services in this manner are numerous. Each agency should be able to purchase shelter care services at actual cost, recommended at \$16 per day. Hopefully, these agencies would then become advocates for services for their youth and would be given the opportunity to be creative in providing for the youth's needs. By virtue of their financial capabilities the agencies could promote any type of shelter care services necessary.

These agencies would have \$16 per day to purchase shelter care in individual homes, shelter facilities, or in the natural family home with additional supervision and support for the youth and family. Any other types or variations of existing programs could be developed in the local communities. If the community is not large enough to maintain a 12-bed shelter facility for example, the agencies might negotiate a smaller shelter program with a family. It might be possible to keep families on a retainer so that they would be readily available for use by an agency. Any number of combinations is possible and creativity is encouraged. Technical assistance should be made available from the state level as per the discussion in Section 4 of this Chapter.

It is possible with an actual cost purchase-of-service agreement that a community could start up a program using a minimal amount of community funds. Another result of a purchase-of-service shelter care system is that no bureaucracy will be initiated at a state level to provide such care and

dysfunctional programs will not survive if the needs of the agencies and youth are not being served. It is felt by the Steering Committee that SRS, the Youth Courts, and the Department of Institutions are responsible to provide adequate care for their youth and that those agencies should be capable of buying those services in their communities. It is assumed that if adequate funding is available that these agencies at a local level will be able to negotiate for necessary services in their communities and lack of availability will disappear.

Staff Development

Resources for staff development and support should be made available to all shelter care projects, programs, and/or service providers. It is recommended that these funds be routed through the Youth Justice Council which is responsible for Youth Development Bureau/Montana Board of Crime Control joint planning efforts. Federal monies may be utilized to initiate staff development activities and the Youth Justice Council could provide for coordination and avoid duplication of efforts and expenditures by SRS, Department of Institutions and the Supreme Court. The budgetary explanation presented in the next section under "Shelter Care" is based upon a \$1 allocation per each youth care day projected annually.

Staff development activities should be supported by state government where necessary resources exist, with the staff development allocation providing supplemental, presently non-existent, resources to Montana's shelter care service providers.

Detention

The value of a detention home to the child, the court, and the community is questionable if it is considered merely a place to "put" children. If it is improperly staffed and lacks sound program and objectives, a new detention building is little more than a children's jail. Children cannot be stored without deterioration unless program and staff are provided to make the experience a constructive one. (NCCD, 1961)

Unfortunately, all that Montana has to provide detention to our youth are county jails which offer only security and knowledge of the whereabouts of the youth. The following are categories of detention programs:

1) Detention centers offer secure custody, as well as a full program of activities, both indoor and outdoor, individual guidance through social casework and social group work, and observation and study. These facilities are used exclusively for the detention of youth and are separate from any adult facility. Economic feasibility of these facilities dictate that the minimum capacity be at least twenty (20) beds.

2) Jail Detention is the type of detention which exists in Montana today. Recreational and educational activities should be present and counseling support should always be available to the detained youth. If the youth population is too small to provide such additional, but desirable services, the youth should be transferred to another facility if detention is to continue for more than a few days.

3) Hospital detention includes security and appropriate services for those youth who are a danger to themselves through attempted suicide, drug abuse, alcohol abuse, or

some other self-destructive tendencies and require detention. These services do exist in a few of the larger Montana communities through use of the local hospital's psychiatric ward. Jailing a youth to protect him/her is inappropriate given the conditions for youth in adult jails. It is difficult to see why self-destructive acts should ever be a basis for detention in jail. Hospitals and emergency clinics are far more appropriate referral agencies for youth who are a threat to themselves.

According to consultations with the National Clearinghouse for Criminal Justice Planning and Architecture, Montana's detention population is too small to consider the development of regional detention centers. In 1975, there were 9,019.5 days of detention in Montana. This results in a statewide average daily population in detention of 24.7. If proper intake services were made available along with all the other recommended procedural changes and alternative shelter care services, the number of detention days should decrease substantially. Three to five 5-bed regional detention centers would not be economically feasible. The National Clearinghouse quotes the following cost figures for detention facility construction:

New construction costs for small detention facilities is \$55/sq. ft. at a recommended 400 to 500 sq. ft. per bed for total facility space. (February, 1976)

-This includes support services such as kitchen, dining space, administration services, multi-purpose areas, and adequate intake and recreational services.

This results in an estimated cost for new construction of a small detention center of \$22,000 to \$27,000 per bed.

It is recommended that Montana initiate the proposed legal, procedural, administrative, and alternative program suggestions prior to any attempt to construct a new detention center.

As an alternative to creating detention centers in Montana, it is suggested that the larger county jails in areas of population concentrations be improved to provide total separation of youth from adults; physical, audio, and visual separation is strongly recommended. Educational and recreational activities should be supplemented with clinical services when appropriate and possible. If these improved jail facilities were located throughout the state, they could be utilized on a "regional" basis by the smaller, less populated counties through a "contract for services" agreement (see Section 3, page 85, of this Chapter).

In addition to the improvement of several larger county jail facilities so that youth can receive adequate, constructive detention care, it is recommended that the small facilities be provided with adequate overnight detention capabilities. This could be achieved through the remodeling of a room in the present facility. This room would be a secure holding room for one or two youth for not more than 24-hours. It would have toilet facilities as well as a sofa type couch. A large plexiglass window would allow constant supervision from the desk sergeant or dispatcher. When not in use, the holding room can be used as a waiting, reception, or interrogation room (see Appendix 5). According to the National Clearinghouse, the remodeling costs would range from \$1,500 to \$3,500

depending on the type of construction of the original building.

Diagnosis and Evaluation

A few years ago, the Youth Courts in Montana were in dire need for a resource to "diagnose & evaluate" youth who were brought before them. The decision-makers felt the need for professional consultation in order to make just and appropriate dispositions for youth involved in the juvenile justice system. Evaluation and diagnostic services were developed at Pine Hills School for Boys (Miles City) and Mountain View School for Girls (Helena). Statutory changes allowed the courts to commit youth to those two state correctional institutions for 45 days for diagnostic and evaluative services.

Because this 45 day evaluation involves secure care and occurs prior to the youth's disposition, the Steering Committee concerned itself with this issue. It seems inappropriate to detain youth in a secure state correctional institution for adjudicated delinquents when many of these youth have not been found guilty on any criminal charge, but have signed a consent decree. Evaluation and diagnosis of only a youth, not his family, school, peers and community in which he/she lives seems inadequate. Community-based resources for expedient evaluations and assessments would appear to be far more adequate to the Youth Court who is concerned with the youth's total situation.

It is recommended that the Mental Health Clinics, Centers, and Satellites become responsive to community

needs by offering the diagnostic, evaluative, and assessment services to youth serving agencies. The recommendation intends that mental health teams be established in Great Falls, Missoula, and Billings, with contractual agreements. The teams could be contacted by youth serving agencies to conduct the appropriate investigative activities in the youth's own community. The total evaluation and diagnosis could be completed in a maximum of four days with two to four staff members. The youth could remain in his/her own home, be sheltered, or detained during this period. The length of stay would be very short and family ties would not be severed. There would be no unnecessary exposure of youth who require evaluation and diagnosis to the more sophisticated youthful offenders of Montana who are residing at the state's two correctional institutions.

If diagnosis and evaluation were to occur in the youth's own community, by one of three specially trained evaluation teams, the Youth Courts would also have up-to-date information regarding community-based correction programs appropriate for particular youth.

Another advantage of the "team approach" to evaluation is that Pine Hills School and Mountain View School would be able to provide more intensive services to the more serious offenders who have been committed to those institutions after all community resources have been exhausted.

Montana's mental health services should certainly desire to be responsible to the evaluation and diagnostic needs of their communities and the state. Utah has established responsive services to juvenile courts through its mental health

services (see Appendix 12 for a description of Utah's program).

This plan does not include a budgetary explanation of costs to provide such services, but does strongly suggest that the mental health services of Montana explore the feasibility of such an approach.

The next section will provide a budgetary explanation of the recommended types of services as well as a description of intended results.

SECTION 3: PROGRAM PLAN

This plan for detention and shelter care programs and supportive services was created in response to the following concepts, essential in providing adequate services to Montana youth.

- increased assessability and quality in detention and shelter care decision making.
- reduction in the number of youth detained in Montana jails, especially status offenders whose behavior does not pose a threat to the public.
- provision for meeting needs of youth as alternative to jail detention, for youth who need shelter care services, and for capacity building of the system.
- provision for youth who can remain at home if given additional supervision as an alternative to shelter care placement.
- establishment of a purchase of service concept at a level of actual costs of providing such care in order to allow agency personnel to advocate and purchase for adequate services for youth in need.
- jail remodeling in order to achieve visual, audio, and physical separation of youth from adult offenders and to provide more humane detention of youth who do require pre-dispositional care.
- development and maintenance of an informations system which will inform the State of Montana in regard to detention and shelter care and which will provide data necessary for the continuous evaluation of the system.
- establishment of system development and management support to implement this plan during the next biennium, and
- development of system maintenance capabilities within SRS, Department of Institutions and the Montana Supreme Court.

The following are budget justifications with goals, objectives, and results intended. The financial resources available for support of this plan are state appropriation; Title XX monies through the Department of SRS, and JJDPa monies through the Montana Board of

Crime Control and the Youth Justice Council. It is suggested that the State of Montana become responsive to the needs of its youth and support adequate services. Federal funds should be utilized for specific purposes which are short-term in nature, such as jail remodeling. Local matching funds should only be required on local program start-ups, such as Attention Homes and home supervision pilot programs. It is recommended that the care of this plan be supported by state funds and certainly, maintained through state appropriation to the proper state departments.

The data used to project proposed budgetary expenditures has some limitations. All of the juvenile information in regard to length of detention, number of youth detained, number of detention days, and number of youth referred to Youth Courts was compiled from the juvenile information reported by the Youth Courts to the Board of Crime Control. Additional data was gathered by the project coordinator where information was obviously inaccurate. The figures used to project need for shelter care were gathered through the use of a survey (Appendix 7) responded to by line staff of the Youth Courts, Department of SRS, and the Aftercare Bureau. Only partial response was received at the time of printing this document. Prior to submission of this plan to the Legislative Council, those figures will be verified or altered.

The recommendations for jail remodeling expenditures are proposed with the assumption that the National Clearinghouse for Criminal Justice Planning and Architecture be requested for consultation on the remodeling plan of each facility.

1. INTAKE

Assumptions:

1) Many youth are sheltered and detained because there is no one available after regular working hours to assist the youth and his/her family through crisis or to make appropriate arrangements to avoid a substitute shelter situation.

2) Specialized intake personnel will make more appropriate detention and shelter care determinations than multi-focus personnel.

3) Intake personnel will be physically present to assess the need for detention or shelter care and will offer intervention counseling.

4) Local governmental units do not have the funds to provide such services to its youth.

5) Screening the referral into an agency for services is the responsibility of that agency.

6) Oftentimes, separation of a youth from his/her family in a time of crisis can be very detrimental to immediate solution of the problem.

Goal:

To increase the availability of and improve the quality of pre-dispositional decision-making at the time of crisis.

Objectives:

To provide 24-hour intake capabilities statewide.

To reduce the rate of detention to the nationally recommended level (10% of apprehensions).

To determine the level of Montana's need for shelter care.

Implementation:

1) 3 two-staff intake units in Yellowstone, Cascade, and Missoula Counties at a cost of \$14,400 per staff:

\$14,400	per staff member
x 2	# staff per unit
\$28,800	cost of each intake unit
x 3	# intake units
\$86,400	cost of 3 intake units

2) To provide 3268.5 hours of contracted personnel to perform intake duties at the hourly rate of \$10 for a total cost of \$32,685. The following is a list of Judicial Districts/Counties recommended for such services with the respective appropriation based on total referrals in 1975.

youth referred to Youth Court x 10 =
contract personnel appropriation

Judicial District #1 (Helena)	\$ 875
Judicial District #2 (Butte)	4,210
Judicial District #3 (Anaconda)	3,675
Judicial District #4 (Ravalli County)	1,560
(Lake County)	846
Judicial District #7 (Glendive)	data unavailable
Judicial District #9 (Cut Bank)	3,750
Judicial District #10 (Lewistown)	1,395
Judicial District #11 (Kalispell)	5,000
Judicial District #12 (Havre)	2,210
Judicial District #13 (Wolf Point)	1,620
Judicial District #16 (Miles City)	3,360
Judicial District #17 (Glasgow)	2,080
Judicial District #18 (Bozeman)	<u>2,205</u>
TOTAL	\$32,685

3) Cooperative agreements initiated by the Youth Courts and specific law enforcement personnel will enable the more rural counties to provide 24-hour intake services at no cost. The following Judicial Districts should utilize the cooperative agreement throughout the entire district:

Judicial District #5 (Dillon, Boulder, and
Virginia City)
Judicial District #6 (Livingston and Big Timber)
Judicial District #14 (White Sulphur Springs,
Harlowton, Ryeate. Roundup)

4) Staff development and training should be developed by the Department of Institutions, SRS, and the Supreme Court. Funds should be made available through the Youth Justice Council with JJPDA monies.

Consequences if not approved:

- scattered divergent "system" of decision-making and responsibility
- unnecessary detention and shelter care at a higher cost
- overbuilding of the system

2. SHELTER CARE

Assumptions:

- 1) Youth who need shelter care are often detained in county jails due to lack of availability of adequate shelter care services.
- 2) Youth who need shelter care are often inappropriately placed due to lack of adequate shelter care services.
- 3) Youth who need additional supervision pending court action or administrative order are sheltered rather than left at home due to lack of manpower in the responsible agencies necessary to provide intensive supervision.
- 4) Adequate shelter care services are difficult to develop, maintain, and utilize due to lack of funds at the state and local level of government.

5) Shelter care providers must spend an excessive amount of staff time obtaining funding as agencies provide only token "custody payments," only a fraction of the actual costs for such services.

6) The average length of stay in shelter will be reduced to seven (7) days with the establishment of the recommended detention and shelter care process.

7) The jail population (of youth) can be reduced by 50% with the provision of adequate, available shelter care services.

8) The number of youth in need of shelter can be computed by adding a) 50% of the jail population, and b) stated needs of the field staff of SRS, Department of Institutions, and Youth Courts.

Goal:

To increase the availability of adequate shelter care services for all youth in need of such services through a purchase of service system based on actual cost.

Objectives:

To reduce the number of youth detention days by 50%.

To provide adequate shelter care for youth who need such services.

To provide additional supervision for youth in need of such services in order to remain in their own homes or avoid detention.

To initiate two additional Attention Home programs.

Implementation:

1) provide shelter care services \$16/youth care day for an average length of state of 7 days for 50% of the youth detained in jails in 1975:

$$\frac{3,434 \text{ youth detained}}{2} = 1,717 \text{ youth}$$

$$1,717 \text{ youth} \times \$112 = \$192,304$$

2) provide state funding (\$16/youth care day) for an average length of stay of 7 days) for shelter care of those youth who are in need of such services as identified by the responsible agencies:

- a) Youth Courts estimated that 1200 youth who were in contact with their agency were in need of shelter care (1975)

$$1200 \times \$112 = \$134,400$$

- b) County social services workers (SRS) estimated that 1800 youth who were in contact with their agency were in need of shelter care (1975)

$$1800 \times \$112 = \underline{\$201,600}$$

- c) Aftercare counselors estimated that 510 youth who were in contact with their agency were in need of shelter care (1975)

$$510 \times \$112 = \underline{\$57,120}$$

3) initiate two additional Attention Homes in Billings and Great Falls by the funding formula described below:

planning and procurement	\$ 19,854
under-capacity operations	6,476
cash flow	11,737
cost of living increase/cash flow (5%)	587
	<u>\$ 38,654</u>

This grant will assist the operations of an Attention Home over an 18 month period:

$$\$38,654 \times 2 = \$77,302$$

(See Appendix 14 for a more detailed explanation)

4) initiate 3 home supervision programs in Billings, Great Falls, and Missoula by providing a 6-month grant to the Youth Courts for the salary of one home supervisor in each community.

4500 x 3 = \$13,500 salaries
13,500 x .14 = 1,890 fringe benefits
\$15,390 Total Cost

5) provide staff development for all personnel involved in direct shelter care services based on a \$1 appropriation per youth care day to be computed as follows:

36,589 youth days x \$1 = \$36,589

Consequences if not approved:

- continuation of over-detention and excessive numbers of status offenders being detained
- continuation of a lack of shelter care services available to Montana youth
- lack of funding capabilities to initiate shelter care programs
- continual funding problems for community based services

3. JAIL REMODELING

Assumptions:

1) Youth should be separated (visual, audio, physical) from adult offenders in order to reduce negative influences on those youth.

2) Rural counties should have adequate appropriate space for occasional detention of youth.

3) Montana should not build detention centers for its youth as the need is not indicated and is not economically feasible.

4) Larger communities should have improved jail facilities to provide necessary detention.

Goal:

To provide total separation of youth from adult offenders in every county jail facility in Montana.

Objective:

To remodel the larger, more centrally located county jail facilities to provide separation within those facilities.

To remodel small, rural jail facilities to provide a secure, separate room for detention of youth.

Implementation:

1) To remodel the following county jail facilities at a cost of \$80,000 to provide separation:

Yellowstone	Silver Bow
Missoula	Lewis & Clark
Cascade	Hill
Flathead	Custer
Gallatin	

2) To remodel approximately 27 smaller county jails to provide a secure, separate room for the detention of youth at the detention of youth at a cost of \$1,500 to \$3,500 per facility for a total cost of \$80,000.

Consequences if not approved:

- youth will continue to have contact with adult offenders while detained
- small county jails will not be able to provide secure detention for youth when necessary

4. DETENTION AND SHELTER CARE PROJECT MANAGEMENT

Assumptions:

- 1) The proposed detention and shelter care plan requires short-term systems design, development, and management.
- 2) Baseline data must be obtained and an information system must be developed and operational within two years.
- 3) The three responsible agencies, namely the Department of Institutions, SRS, and the Supreme Court, do not presently have such capabilities.
- 4) Once the detention and shelter care system is designed and developed, the three agencies named above will be able to maintain and operate the system.
- 5) The Board of Crime Control has accepted the responsibility to attempt de-institutionalization of status offenders and separation of youth from adult offenders and would therefore be the most obvious agency to "house" a temporary system management staff.

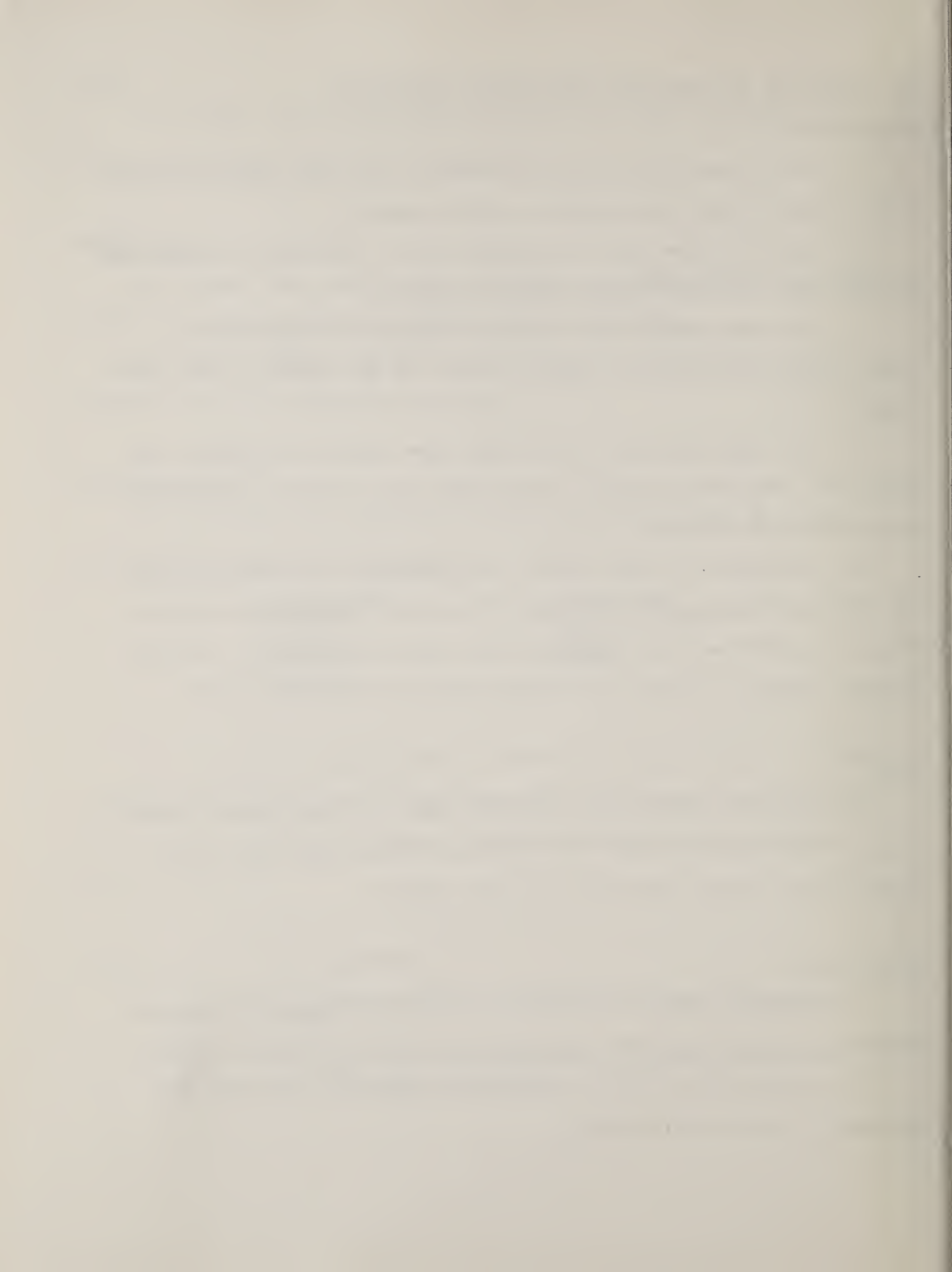
Goal:

To provide system design and development of the proposed detention and shelter care plan for a two-year period with such staff being housed within the Board of Crime Control.

Objectives:

To provide a staff consisting of a program manager, a systems analyst, a program monitor, and secretary, for a two-year period.

To provide such a staff with office supplies, equipment and necessary travel reimbursement.



Implementation:

1) provide the following appropriations:

Personnel:	Program Manager V	\$ 15,722
	Systems Analyst	14,332
	Program Monitor	13,073
	Secretary	8,222
	Fringe Benefits	<u>7,189</u>
		\$ 58,538
Travel:	Out-of-State	700
	In-State	<u>3,672</u>
		\$ 4,372
Equipment:		\$ 1,370
Consultants:		\$ 1,350
Supplies:		\$ 1,100
	TOTAL	\$ 66,730

Consequences if not approved:

- the detention and shelter care system will not develop

SUMMARY AND PROJECTIONS

1st Year

1.	Detention & Shelter Care Project Management	\$	66,730
2.	Intake Services		131,281
3.	Jail Remodeling		160,000
4.	Shelter Care Services		<u>714,711</u>
	TOTAL	\$	1,072,722

2nd Year

1.	Detention & Shelter Care Project Management (less equipment)	\$	65,360
2.	Intake Services		131,281
3.	Jail Remodeling (first year's appropriation is adequate to achieve the goal)		
4.	Shelter Care (less the start-up costs for Attention Homes & Home Supervision Programs)		<u>622,013</u>
	TOTAL	\$	818,654

3rd Year

1.	Detention & Shelter Care Project Management (this staff transfers all its responsibilities and activities to SRS, the Youth Court Adminis- trator, and Aftercare)		
2.	Intake Services	\$	131,281
3.	Shelter Care Services		<u>622,013</u>
	TOTAL	\$	753,294



DETENTION AND SHELTER CARE PROJECT MANAGEMENT

<u>PERSONNEL:</u>	Program Manager V (grade 15)	\$15,722
	Systems Analyst (grade 14)	14,332
	Program Monitor (grade 13)	13,073
	Secretary (grade 8)	8,222
	Fringe benefits: (14%)	<u>7,189</u>
		58,538
<u>TRAVEL:</u>	Out-of-state: 2 trips @ \$200 ea.	400
	3 days/trip: 6 per diem days	
	\$37/day - room	222
	\$13/day - meals	<u>78</u>
		700
	In-state:	
	avg. 1000 miles/mo. (12,000 mi.)	1,800
	36 trips	
	avg. 2 da./trip: 72 per diem days	
	\$16/day - room	1,152
	\$10/day - meals	<u>720</u>
		3,672
		4,372
<u>EQUIPMENT:</u>	3 desks @ \$240 each	720
	3 chairs @ \$130 each	390
	1 filing cabinet @ \$110 each	110
	desk supplies	<u>150</u>
		1,370
<u>CONSULTANTS:</u>	10 days @ \$135/day	1,350
<u>SUPPLIES:</u>	Office supplies and postage	1,100
	TOTAL	\$66,730

INTAKE SERVICES

The costs of these services have been computed on the following basis:

1. intake through a cooperative agreement between the Youth Court and law enforcement personnel at no cost.
2. intake through personnel to be "on call" costing \$10/hour, for one half of the court referrals:

$$\frac{\text{\#youth referred to court}}{2} \times \$10 = \text{contracted personnel costs}$$

3. intake through a 2 person intake unit at a cost of \$14,400 per staff person:

$$\$14,400 \times 2 = \$28,800$$

4. it is to be assumed that any of the following recommendations for contracted services or intake units may be supplemented by an agreement between the Youth Court and specific law enforcement personnel in the more rural counties in the Judicial District.

Judicial District	Type of Intake Recommended	Formula	Cost
#1	contracted personnel	$\frac{175}{2} \times \$10$	\$ 875
#2	contracted personnel	$\frac{842}{2} \times \$10$	4,210
#3	contracted personnel	$\frac{735}{2} \times \$10$	3,675
#4	Missoula-intake unit	14,400 X 2	28,800
	Ravalli-contracted personnel	$\frac{312}{2} \times \$10$	1,560
Lake	contracted personnel	$\frac{169}{2} \times \$10$	846
#5	law enforcement agreement		
#6	law enforcement agreement		

Judicial District	Type of Intake Recommended	Formula	Cost
#7	contracted personnel	data unavailable	
#8	intake unit	\$14,400 X 2	\$ 28,800
#9	contracted personnel	$\frac{750}{2} \times \$10$	3,750
#10	contracted personnel	$\frac{279}{2} \times \$10$	1,395
#11	contracted personnel	$\frac{1000}{2} \times \$10$	5,000
#12	contracted personnel	$\frac{442}{2} \times \$10$	2,210
#13	intake unit	\$14,400 X 2	28,800
#14	law enforcement agreement		
#15	contracted personnel	$\frac{324}{2} \times \$10$	1,620
#16	contracted personnel	$\frac{672}{2} \times \$10$	3,360
#17	contracted personnel	$\frac{416}{2} \times \$10$	2,080
#18	contracted personnel	$\frac{441}{2} \times \$10$	2,205
		TOTAL	\$ 131,281

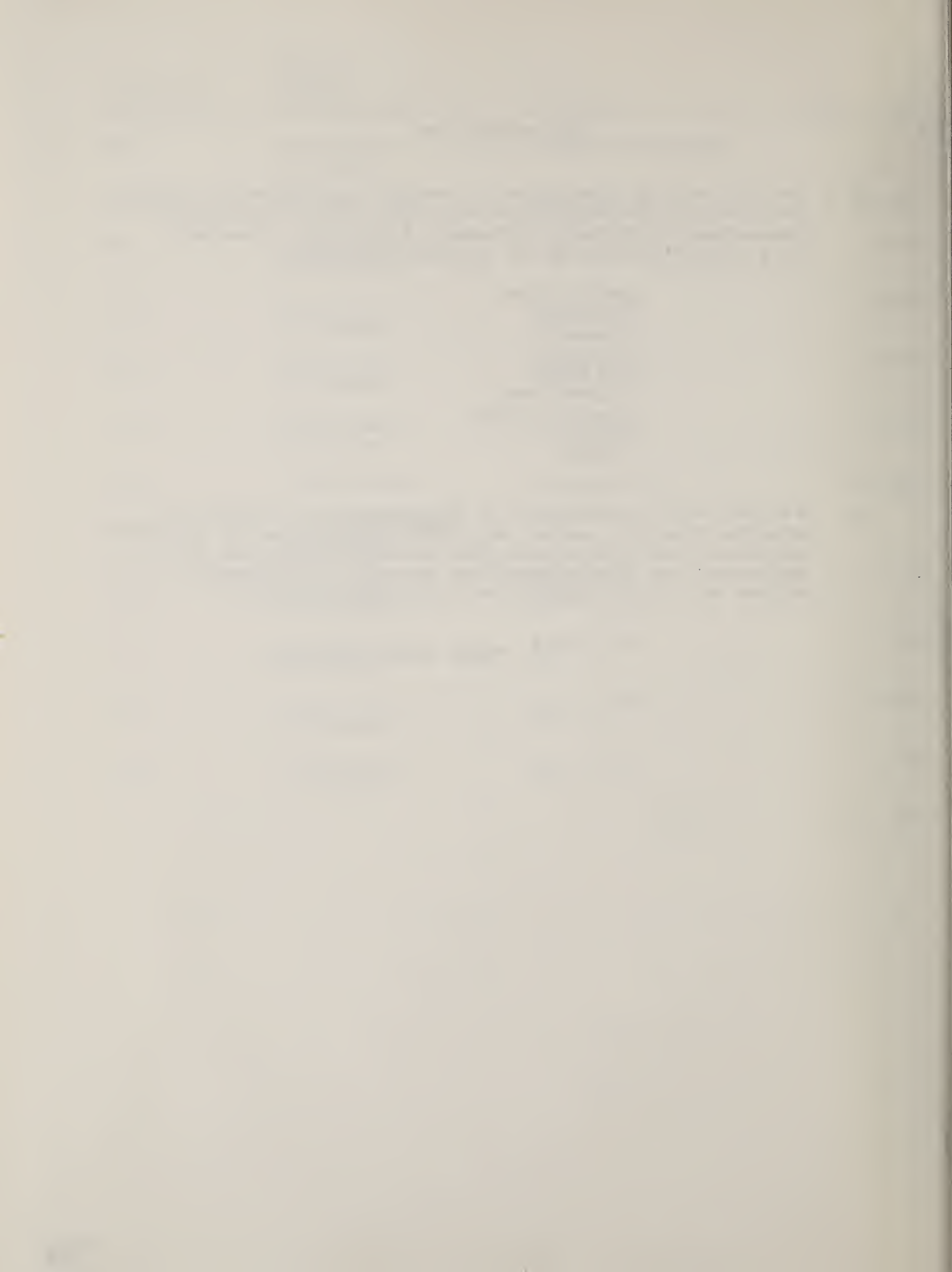
JAIL REMODELING

- A. \$80,000 will be available to remodel the following county jail facilities to provide physical, audio, and visual separation of juvenile offenders from adult offenders. This separation should be completed by 6-79.

Yellowstone
Missoula
Cascade
Flathead
Gallatin
Silver Bow
Lewis & Clark
Hill
Custer

- B. \$80,000 will be available to the remaining counties to provide physical, audio, and visual separation of juvenile offenders from adult offenders through remodeling an existing room in the sheriff's or police department's office at a cost of \$1,500 to \$3,500 per facility.

TOTAL COST: \$160,000



SHELTER CARE

A. Attention Homes

Individual grant as follows:

1. planning and procurement	\$ 19,854
2. under capacity operations	6,476
3. cash flow	11,737
4. cost of living increase on cash flow	587
	<u>\$ 38,654</u>

Billings Attention Home	\$ 38,654
Great Falls Attention Home	<u>38,654</u>
Total:	\$ 77,308

B. Home Supervision Pilot Programs

Billings	4,500
Great Falls	4,500
Missoula	4,500
fringe benefits	<u>1,690</u>
Total:	15,390

C. Provide shelter care for all youth in need of shelter care who are the responsibility of SRS, Youth Courts, or the Bureau of Aftercare at the cost of \$16 per day for an average of 7 days per youth or:

$$\$16 \times 7 = \$112 \text{ per youth}$$

- 1) provide shelter care for 50% of the youth detained in 1975:

$$\frac{3,434 \text{ youth detained}}{2} = 1,717$$

$$1,717 \text{ youth} \times \$112 = \$192,304$$

- 2) provide shelter care for Aftercare youth as indicated by the survey (Appendix 7)

$$510 \text{ youth} \times \$112 = \$ 57,120$$

- 3) provide shelter care for youth served through the Youth Courts as indicated by the survey (Appendix 7)

$$1,200 \text{ youth} \times \$112 = \$ 134,400$$

- 4) provide shelter care for youth served through the county social service caseworkers as indicated by the survey (Appendix 7)

1,800 youth X \$112 = \$201,600

Total: \$585,424

D. Staff development @ \$1 per youth care

day: 36,589 youth care days

x \$1

36,589

Total: \$ 36,589

GRAND TOTAL:

\$714,

SECTION 4: DETENTION AND SHELTER CARE SYSTEM DEVELOPMENT AND MANAGEMENT

The State of Montana should assume the responsibility of providing adequate shelter and detention services for its youth. This can be achieved through the Department of Social and Rehabilitation Services, the Department of Institutions, and the Supreme Court. In Chapter III, it was recommended that these agencies, through their local personnel have the responsibility for the initial decision-making and placement of youth needing shelter or detention services, with review and monitoring of the district court. The Steering Committee proposes that this responsibility be carried to the state level for full responsibility. With the exception of the Supreme Court, each of these agencies has the manpower capability to achieve this end. It is assumed that the Supreme Court will, in the near future, provide administrative support to Montana's Youth Courts. The responsibilities of such a Youth Court Administrator as presently proposed is described in Appendix 13.

Due to the complexity and development needs of initiating the system described in this plan, it is proposed that a management staff be provided for the first two years.

This detention and shelter care project staff would be responsible for the following Phase I activities:

- 1) develop an informations system in cooperation with the responsible agencies, SRS, Department of Institutions, and the Supreme Court;
- 2) develop data gathering procedures and report formats;
- 3) analyze the existing information systems in regard to feasibility of adapting those systems to the new informational needs;

- 4) develop and establish the shelter care, detention, intake and procedural recommendations described by this plan;
- 5) monitor program goals and objectives;
- 6) evaluate programs and procedural impact;
- 7) develop and initiate a plan for implementation of 24 hour intake services throughout Montana;
- 8) provide a more adequate informational base in order to more accurately project system and service needs;
- 9) provide necessary technical assistance for all activities described in this plan;
- 10) assist the responsible agencies in establishing standards of care and licensing standards and procedures;
- 11) develop enforcement procedures for standards of both detention and shelter care services;
- 12) develop procedures for distribution and accountability of any monies appropriated or received to provide shelter care to Montana youth;
- 13) investigate the various methods of providing adequate shelter care for those youth who are in need of such care, but who are not involved with the Youth Courts or the Departments of SRS and Institutions; and,
- 14) in two years, provide the responsible agencies with an established detention and shelter care system which is operational with only needs for maintenance and monitoring.

This detention and shelter care staff and budget was presented in the previous section of this Chapter.

Two years after legislative approval, it is proposed that the detention and shelter care system will be operational and the project staff created to accomplish the Phase I activities mentioned above will be dysfunctional and disbanded. At that time, SRS, the Department of Institutions, and the Supreme Court will assume management and maintenance of the system with no additional staff requirements presently foreseen.

These agencies will then have the following responsibilities:

- 1) updating of licensing standards and procedures for all shelter care services providing for youth under the supervision of that agency;
- 2) responsibility to license programs which comply with established standards;
- 3) maintenance, data collection, and annually reporting of detention and shelter care data as established in Phase I activities;
- 4) periodic inspection and monitoring of all facilities including county jails with recommendations for improvement of services;
- 5) providing technical assistance to shelter care, detention, and intake services;
- 6) providing input to the planning and development activities for youth services of the Youth Justice Council, Youth Development Bureau, and the Montana Board of Crime Control;
- 7) providing the legislature with the necessary information to appropriate adequate funds for purchase of shelter care services; and,
- 8) administer the purchase of service funds in an efficient manner.

With the provision for a Youth Court Administrator, each of the three agencies will have the capability to fulfill their responsibilities as outlined. The funds for purchase of services for youth served should be appropriated by the legislature from the General Fund and should operate similar to a voucher system. As far as the accountabilities outlined are concerned, both SRS and the Department of Institutions have information systems and programmers to achieve the goals set out. The Supreme Court does not presently have an information system; however, the Board of Crime Control is developing a juvenile information system for the Youth Courts of Montana which will be housed in the Supreme Court as soon as maintenance capabilities are developed in that agency.

The enforcement of standards for shelter care and detention is critical. Montana youth should benefit from quality care, regardless of local politics, lack of manpower, or bureaucratic red tape. The Department of Health and Environmental Sciences has the responsibility to inspect and recommend necessary changes in local jail facilities, however, the authority to enforce the standards or recommendations is not included in the assignment of that responsibility. Shelter care services must reapply for a license from SRS each year, but only facility standards are at issue during such licensing. It is proposed the program and the facility standards are developed by the project management staff, the Departments of SRS and Institutions, and the Supreme Court. With few exceptions, all youth who will receive the benefit of shelter care and detention services will have been involved in a court proceeding. The Supreme Court, therefore, is the most obvious choice for enforcement of shelter care and detention standards.

Intended Affects of the Proposed System

It is suggested that these provisions would create a shelter and detention system which is more responsive to the needs of youth as perceived by the agencies responsible for their care. The services would be provided by non-profit corporations on a community level. The per diem payments would be commensurate to the actual cost per day for purchased services and would, therefore, maintain desirable services for youth. Except for "start-up" costs and "closure-reopen" costs, shelter and detention programs would be able to maintain their services on per diem payments.

These provisions would also create advocates for services for

youth (SRS, Department of Institutions, and Youth Courts) who could buy necessary services and not utilize inadequate services just because "those are the only services available." Funds would be available through the Youth Justice Council for "start-up" costs for new or improved adequate care and per diem payments at a level actual cost of services would maintain a desirable program.

The Youth Justice Council would also be responsive to supplementing already available technical assistance to plan, develop, and establish shelter and detention services.

Example

In community "X" it is felt by the youth serving agencies that a shelter facility is needed for youth awaiting their hearings. A private, non-profit group or any of the youth serving agencies must develop a plan to meet the stated needs of youth to be involved. State-level technical assistance in the planning and development stages is provided by the agencies involved. This could be supplemented by purchased technical assistance through the Youth Justice Council. The plan must then be approved by any one or all of the three responsible agencies and submitted to the Youth Justice Council for funding of "start-up" costs if such funds are necessary. If approved, the funds will be funneled through the responsible agencies to be used to purchase shelter and detention services for youth in that community (or surrounding area).

The applicant corporation or agency will have to be licensed by the agencies who will utilize the service. Each agency will be responsible for the type of care its youth receive. If the facility does not provide adequate care and the agencies do not place youth in that program, the program will fold for lack of funds. If the

program is indeed responsive to the needs of the youth, the agency, and the community, the program will be able to maintain itself and maybe improve its services on the per diem payments from the first year of operation (when it was operating on grant funds).

Comments

Purchase of services from non-profit community organizations by responsible agencies will alleviate the initiation of a shelter and detention bureaucracy which would be impossible to dismantle if ineffective or inadequate. With the purchase of services and separate licensing which includes program and service content rather than facility standards, programs will be responsive to non-existent. The state will not be operating programs which are free to the agency, costly to the taxpayer, and unresponsive to the needs of youth.

One must be cautious, however, with purchase of services on a youth-day basis, as some programs may tend to keep youth longer in the program than is justifiable in order to obtain funds. Safeguards must be established to avoid this dysfunctional, and many times tragic, occurrence. The decision to release the youth from the program must lie with the placing agency, not with the service providers.

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APPENDICES

- Appendix 1: Detention and Shelter Care Surveys
Questionnaire #1
Questionnaire #2
Presentation of Findings
- Appendix 2: Jail Costs in Montana
- Appendix 3: Home Detention Program Description
- Appendix 4: Proctor Program
- Appendix 5: Small Juvenile Detention Room
- Appendix 6: Present Shelter Care Facilities and Data
- Appendix 7: Shelter Care Need Survey
- Appendix 8: Montana Youth Court Act
- Appendix 9: Critique of the Youth Court Act
- Appendix 10: Similar Attempts in Montana
- Appendix 11: Intake Responsibilities
- Appendix 12: Diagnostic and Treatment - Utah
- Appendix 13: Proposed Job Description -- State Youth Court
Administrator
- Appendix 14: Shelter Facility Grant Explanation

APPENDIX 1

QUESTIONNAIRE #1

Office of the Governor
State of Montana
Capitol Building
Helena, Montana

a n d

Board of Crime Control
State of Montana
1336 Helena Avenue
Helena, Montana

DETENTION AND SHELTER CARE SURVEY

In 1975, the Montana Legislature passed Senate Joint Resolution 22 calling for a study of detention and shelter care services for juveniles and development of a comprehensive plan for such services. This survey is a part of that study requested by the legislature.

Through this survey, we intend to obtain information on current detention and shelter care practices, as well as the status of the system in general, the importance of kinds of information involved in the detention or shelter care decision, and the objectives of detention and shelter care, from the point of view of the practitioner. This kind of information will enable us to assess the situation and facilitate the planning to meet present and anticipated needs; and, of course, the best way for us to obtain this kind of information is to go directly to the professionals, like yourself, who are involved in the detention and shelter care system in one way or another.

Your contribution to this study, by taking the time to complete the questionnaire, will certainly be appreciated. No names are asked for in this questionnaire, nor are they needed. The completed questionnaires will remain confidential and no individual responses will be released, only the summaries of all the responses to the questions. So please be candid and honest in indicating your responses.

* * * * *

Before going on to the questions, we would like to establish some definitions assumed in the survey. First of all, all the questions presented here concern juveniles between the ages of ten and seventeen years. Secondly, while both detention and shelter care refer to the temporary care of children, by the term detention we mean the secure custody of the child in a physically restricting facility. Shelter care, on the other hand, means nonsecure custody in a facility that does not physically restrict the child; also, the terms shelter care and emergency placement mean the same thing and are used interchangeably.

If you have any questions about how to complete the questionnaire, please do not hesitate to ask the interviewer. And when you have completed the questionnaire, please seal it in the envelope provided. Thank you.

SECTION I

The following statements all concern the detention of children between the ages of ten and seventeen. Please read each statement and indicate your honest and candid reaction--that is, do you agree or disagree, or what? *Circle the number of the one response that comes closest to matching your opinion, based on the following scale:*

1 = Strongly Disagree

2 = Disagree

3 = Neither

4 = Agree

5 = Strongly Agree

	SD	D	N	A	SA
1. Detention practices and philosophy in general should be reviewed and probably completely changed	1	2	3	4	5
2. The law clearly specifies who should be detained	1	2	3	4	5
3. A youth should be detained unless it can be proved that detention is unnecessary	1	2	3	4	5
4. It is proper for law enforcement officers to make detention decisions.	1	2	3	4	5
5. The distance from the place of arrest to the place of detention influences the decision to detain a youth.	1	2	3	4	5
6. The request of the school administration that a child be detained should ordinarily be followed	1	2	3	4	5
7. A child should never be detained in jail	1	2	3	4	5
8. If a child is arrested, the arresting officer's opinion on detention should ordinarily be followed.	1	2	3	4	5
9. The general physical condition and atmosphere of the place of detention influences the detention decision	1	2	3	4	5
10. Parents of alleged juvenile offenders need not be consulted in a detention decision.	1	2	3	4	5
11. A child should not be detained for any offense that an adult would not be detained for.	1	2	3	4	5
12. Making the wrong detention decision is usually a result of inexperience on the part of the decision maker	1	2	3	4	5
13. A child should never be detained in jail if a suitable alternative exists	1	2	3	4	5
14. A child needs legal counsel during the initial intake.	1	2	3	4	5

SECTION I (CONTINUED)

	SD	D	N	A	SA
5. A written policy regarding who may make the decision to detain a child is necessary.	1	2	3	4	5
6. No matter who makes the decision to detain, a hearing should be held as soon as possible to determine if the detention should continue.	1	2	3	4	5
7. A written policy regarding the circumstances allowing for detention of a child is necessary.	1	2	3	4	5

SECTION II

In any situation that involves a youth and requires that a decision be made regarding the possible detention of that youth, there will be several kinds of information available to the person making the decision. A number of these kinds of information are listed below.

While all of these will, of course, have some importance to the detention decision, we need to know how important each item is, in your opinion. To help you rate the importance of each item, read down the list to form a first impression of the relative importance of each item. Then, for each item, ask yourself: "If I were making the detention decision right now, how important would this kind of information be to my decision?"

For each item listed, circle the one response that comes closest to matching your opinion: for example, if you feel it is "not at all important" circle the 1; if you feel it is "moderately important" circle the 3; if it is "extremely important" circle the 5; and if your opinion falls somewhere in between those categories, circle the appropriate number on the scale:

NOT AT ALL MODERATELY EXTREMELY
 IMPORTANT. IMPORTANT IMPORTANT
 1 2 3 4 5

	NOT IMP	MOD IMP	EXT IMP	
1. Family income and social status.	1	2	3	4 5
2. Source of the referral -- e.g., police, parent(s), school, other.	1	2	3	4 5
3. Whether the child is living with one parent or with both parents.	1	2	3	4 5
4. Type of living situation--that is, whether the child is living at home or in some other placement.	1	2	3	4 5
5. Whether the child has been detained before	1	2	3	4 5
6. Whether the child has committed previous offenses.	1	2	3	4 5

SECTION II (CONTINUED)

	NOT IMP		MOD IMP		EXT IMP
7. Sex of the child	1	2	3	4	5
8. Seriousness of the alleged current offense	1	2	3	4	5
9. Whether the child has a history of alcohol abuse	1	2	3	4	5
10. Occupation of the parent(s), including whether or not employed and whether receiving public assistance	1	2	3	4	5
11. Whether there is a likelihood that the child will run away . .	1	2	3	4	5
12. Whether the child has a history of involvement with harmful drugs.	1	2	3	4	5
13. That the child is Indian and living on the reservation	1	2	3	4	5
14. That the child is Indian but not living on the reservation . .	1	2	3	4	5
15. Attitude, appearance, and behavior of the parent(s) at the time of contact with the probation staff	1	2	3	4	5
16. Attitude, appearance, and behavior of the parent(s) at the time of contact with the law enforcement officer, if involved	1	2	3	4	5
17. Behavior of the child at the time of apprehension.	1	2	3	4	5
18. Current juvenile court policy.	1	2	3	4	5
19. Current policy of the county attorney.	1	2	3	4	5
20. Availability of the parent(s)--whether or not parent(s) can be located	1	2	3	4	5
21. Community opinion concerning the particular type of offense allegedly committed by the youth	1	2	3	4	5
22. Age of the youth	1	2	3	4	5
23. Current population of the jail	1	2	3	4	5

SECTION III

In this section we have listed several statements that represent what are often expressed as "objectives" of detention. What is your reaction to each of these so-called "objectives"--do you agree with it as an objective of detention, do you disagree, or what?

For each "objective" listed, circle the one response that comes closest to matching your opinion, based on the scale: Strongly Disagree (1), Disagree (2), Neither (3), Agree (4), Strongly Agree (5).

	SD	D	N	A	SA
1. To protect the child	1	2	3	4	5
2. To ensure the safety of the community.	1	2	3	4	5
3. To deter the child from further delinquency or acting out.	1	2	3	4	5
4. To prevent the child from running away	1	2	3	4	5
5. To assure the child's appearance in court.	1	2	3	4	5
6. To punish the child appropriately.	1	2	3	4	5
7. To provide an opportunity for evaluation of the child.	1	2	3	4	5
8. To provide short-term intensive treatment.	1	2	3	4	5
9. To impress the child and his/her parent(s) with the serious nature of the child's behavior	1	2	3	4	5
10. To follow the letter of the law.	1	2	3	4	5
11. To give the child's parent(s) an opportunity to "cool down".	1	2	3	4	5
12. To give the child an opportunity to "cool down".	1	2	3	4	5
13. To provide an opportunity for evaluation of the child's home	1	2	3	4	5

SECTION IV

In Sections I, II, and III, you were asked to react to various statements dealing with the detention of youth; in this section, and the following two sections, you will be asked to react to various statements relating to the emergency placement of youth.

Please read each of the following statements concerning emergency placement and indicate your honest and candid reaction--that is, do you agree or disagree, or what? Circle the number of the one response that comes closest to matching your opinion, based on the scale: Strongly Disagree (1), Disagree (2), Neither (3), Agree (4), and Strongly Agree (5).

SECTION IV (CONTINUED)

	SD	D	N	A	SA
1. Emergency placement practices and philosophy in general should be reviewed and probably completely changed	1	2	3	4	5
2. The law clearly specifies who should be placed in emergency care	1	2	3	4	5
3. A youth should be placed in shelter care unless it can be proved that emergency placement is unnecessary	1	2	3	4	5
4. It is proper for law enforcement officers to make initial shelter care decisions	1	2	3	4	5
5. The distance from the place of referral to the place of shelter care influences the decision to place a youth in emergency care	1	2	3	4	5
6. The request of the school administration that a child be placed in emergency care should ordinarily be followed	1	2	3	4	5
7. Jail should never be used for emergency placement of a child.	1	2	3	4	5
8. If a child is referred by probation officials, their opinion on emergency placement should ordinarily be followed	1	2	3	4	5
9. The general physical condition and atmosphere of the shelter care influences the placement decision	1	2	3	4	5
10. Parents of an alleged juvenile offender need not be consulted in an emergency placement decision	1	2	3	4	5
11. A child should not be detained for any offense that an adult would not be detained for.	1	2	3	4	5
12. Making the wrong emergency placement decision is usually a result of inexperience on the part of the person making the decision	1	2	3	4	5
13. Jail should never be used for emergency placement of a child if a suitable alternative exists	1	2	3	4	5

SECTION V

Several kinds of information are generally available to the person who has to make a decision concerning the emergency placement of a child. A number of these kinds of information are listed below.

Assuming that you were making the emergency placement decision right now--how important would each item be to your decision? You might want to read over the list first to get an impression of the relative importance of each item and then indicate your opinion on each.

For each item listed, circle the one response that comes closest to matching your opinion as to its importance to the placement decision. This is the scale:

NOT AT ALL MODERATELY EXTREMELY
 IMPORTANT. IMPORTANT IMPORTANT
 1 2 3 4 5

	NOT IMP		MOD IMP		EXT IMP
1. Family income and social status.	1	2	3	4	5
2. Source of the referral -- e.g., police, parent(s), school, other.	1	2	3	4	5
3. Whether the child is living with one parent or with both parents.	1	2	3	4	5
4. Type of living situation -- that is, whether the child is living at home or in some other placement.	1	2	3	4	5
5. Whether the child has been placed in emergency care before . .	1	2	3	4	5
6. Whether the child has committed previous offenses.	1	2	3	4	5
7. Sex of the child	1	2	3	4	5
8. Seriousness of the alleged current behavior.	1	2	3	4	5
9. Whether the child has a history of alcohol abuse	1	2	3	4	5
10. Occupation of the parent(s), including whether or not employed and whether receiving public assistance	1	2	3	4	5
11. Whether there is a likelihood that the child will run away . .	1	2	3	4	5
12. Whether the child has a history of involvement with harmful drugs.	1	2	3	4	5
13. That the child is Indian and living on the reservation	1	2	3	4	5
14. That the child is Indian but is living off the reservation . .	1	2	3	4	5
15. Attitude, appearance, and behavior of the parent(s) at the time of contact with the social worker	1	2	3	4	5
16. Attitude, appearance, and behavior of the parent(s) at the time of contact with the law enforcement officer, if involved. .	1	2	3	4	5

SECTION V (CONTINUED)

	NOT IMP		MOD IMP		EXT IMP
17. Behavior of the child at the time of contact	1	2	3	4	5
18. Current juvenile court policy.	1	2	3	4	5
19. Current policy of the county attorney.	1	2	3	4	5
20. Availability of the parent(s) -- whether or not parent(s) can be located	1	2	3	4	5
21. Community opinion concerning the particular type of situation in which the youth has become involved	1	2	3	4	5
22. Age of the youth	1	2	3	4	5
23. Availability of foster homes or other emergency care facilities	1	2	3	4	5

SECTION VI

Earlier you were asked your opinion about various "objectives" of detention. Now we would like you to consider several so-called "objectives" of emergency placement and indicate your reaction to each one--do you agree with it as an objective of emergency placement, do you disagree, or what?

For each "objective" listed, circle the one response that comes closest to matching your opinion, using the scale: Strongly Disagree (1), Disagree (2), Neither (3), Agree (4), Strongly Agree (5).

	SD	D	N	A	SA
1. To protect the child	1	2	3	4	5
2. To ensure the safety of the community.	1	2	3	4	5
3. To deter the child from further delinquency or acting out.	1	2	3	4	5
4. To prevent the child from running away	1	2	3	4	5
5. To assure the child's appearance in court.	1	2	3	4	5
6. To punish the child appropriately.	1	2	3	4	5
7. To provide an opportunity for evaluation of the child.	1	2	3	4	5
8. To provide short-term intensive treatment.	1	2	3	4	5
9. To impress the child and his/her parent(s) with the serious nature of the child's behavior	1	2	3	4	5
10. To follow the letter of the law.	1	2	3	4	5
11. To give the child's parent(s) an opportunity to "cool down".	1	2	3	4	5
12. To give the child an opportunity to "cool down".	1	2	3	4	5
13. To provide an opportunity for evaluation of the home	1	2	3	4	5
14. To provide adequate time for case planning	1	2	3	4	5

NOTE TO RESPONDENT: WHEN YOU REACH THIS POINT, PLEASE SIGNAL THE INTERVIEWER WHO WILL GIVE YOU SOME ADDITIONAL MATERIALS FOR YOUR USE IN COMPLETING SECTION VII.

SECTION VII

Please indicate below (by number) which, if any, of the various placement alternatives are not available to you (for referral) at the present time. If they are all available, then write in "All available."

Placement alternatives not currently available: _____

Now, for each of the cases listed below, a decision would be made concerning the appropriate placement of the child involved. You are to make that decision assuming that the information provided in each case is the only information available at that moment.

To avoid going into too much detail, we have used some generalized descriptions or descriptive terms, explained below, to characterize the type of offense committed and the type of living situation in each case. Please keep these in mind as you read through each case and make your decision.

Type of offense committed

Major delinquency offense -- would include such offenses as burglary, auto theft, first degree assault, robbery, or the like

Minor delinquency offense -- such as petty larceny, malicious mischief, or the like

Major status offense -- such as being a runaway (local or nonlocal) or ungovernable

Minor status offense -- such as a curfew or drinking violation or truancy

Type of living situation

Lives at home -- would include living with parent(s), other close relative(s), or the like

Does not live at home -- would include other placements, such as a foster home, group home, receiving home, or the like

PLEASE REMEMBER: You are being asked to respond to the various cases as if you had to make the decision right now: first, the placement you would use based on what is available to you now; and second, the placement you would prefer to use, assuming all possible alternatives were available. If you wish to indicate a placement alternative for either of the questions) that is not on any of the cards, be sure to describe it completely in the space provided (or on the back of the sheet if you need more room).

SECTION VII (CONTINUED)

A. Placement alternative you would use, based on those available to you today.

B. Placement alternative you would prefer to use, regardless of whether that alternative is currently available.

A. Placement
Alternative
Used Today

B. Placement
Alternative
Preferred

(Indicate by number; if "other,"
please explain.)

1) Twelve-year-old male
Committed major status offense
No previous offense
Considered cooperative, not likely to abscond or
commit an additional offense
Lives at home
Persons having physical custody of him are located
and cooperative

2) Sixteen-year-old male
Committed a major delinquency offense
Known to have committed a previous offense
Considered cooperative and not likely to abscond or
commit an additional offense
Does not live at home
Persons with physical custody are located and
cooperative

3) Fifteen-year-old female
Committed a major status offense
Known to have committed a previous offense
Considered uncooperative and likely to abscond or
commit an additional offense
Lives at home
Persons with custody are located and cooperative

4) Seventeen-year-old male
Committed a major status offense
Considered cooperative and not likely to abscond
or commit an additional offense
Is not living at home
Persons with custody are located and cooperative

5) Seventeen-year-old female
Committed a major delinquency offense
No previous offense
Considered cooperative and not likely to abscond or
commit an additional offense
Is not living at home
Persons with custody cannot be located

SECTION VII (CONTINUED)

SECTION VII (CONTINUED)	A. Placement <u>Used Today</u>	B. Placement <u>Preferred</u> (Indicate by number; if "other," please explain.)
6) Thirteen-year-old female Committed minor status offense Known to have committed a previous offense Considered uncooperative and likely to abscond or commit an additional offense Lives at home Persons with custody are located but uncooperative		
7) Ten-year-old male Committed a minor status offense Known to have committed a previous offense Considered cooperative but likely to abscond or commit an additional offense Living at home Persons with physical custody cannot be located		
8) Fourteen-year-old female Committed a major status offense No previous offense Considered uncooperative and likely to abscond or commit an additional offense Living at home Persons with custody are located and cooperative		
9) Twelve-year-old male Committed a major status offense No previous offense Considered cooperative but likely to abscond or commit an additional offense Lives at home Persons with custody cannot be located		
10) Sixteen-year-old female Committed a minor delinquency offense No previous offense Considered cooperative and not likely to abscond or commit an additional offense Lives at home Persons with custody cannot be located		
11) Fifteen-year-old male Committed a minor delinquency offense No previous offense Considered uncooperative and likely to abscond or commit an additional offense Does not live at home Persons with custody are located but uncooperative		

SECTION VII (CONTINUED)

	A. Placement <u>Used Today</u>	B. Placement <u>Preferred</u>
	<i>(Indicate by number; if "other," please explain.)</i>	
12) Ten-year-old male Committed a major status offense No previous offense Considered cooperative and not likely to abscond or commit an additional offense Lives at home Persons with custody are located but uncooperative		
13) Fourteen-year-old female Committed a major status offense Known to have committed a previous offense Considered uncooperative but not likely to abscond or commit an additional offense Lives at home Persons with custody are located and cooperative		
14) Sixteen-year-old male Committed a major delinquency offense No previous offense Considered cooperative and not likely to abscond or commit an additional offense Does not live at home Persons with custody are located and cooperative		
15) Sixteen year-old female Committed a major delinquency offense No previous offense Considered cooperative and not likely to abscond or commit an additional offense Is not living at home Persons with custody cannot be located		
16) Fifteen-year-old female Committed a minor status offense Known to have committed a previous offense Considered cooperative but likely to abscond or commit an additional offense Lives at home Persons with custody are located but uncooperative		
17) Seventeen-year-old male Committed a minor status offense Known to have committed a previous offense Considered cooperative but likely to abscond or commit an additional offense Lives at home Persons with custody cannot be located		

SECTION VII (CONTINUED)

A. Placement
Used TodayB. Placement
Preferred*(Indicate by number; if "other,"
please explain.)*

18) Twelve-year-old male
 Committed a minor status offense
 Known to have committed a previous offense
 Considered uncooperative and likely to abscond or
 commit an additional offense
 Lives at home
 Persons with custody cannot be located

19) Sixteen-year-old male
 Committed a minor delinquency offense
 No previous offense
 Considered uncooperative and likely to abscond or
 commit an additional offense
 Does not live at home
 Persons with custody are located and cooperative

20) Eleven-year-old male
 Committed a major status offense
 No previous offense
 Considered cooperative and not likely to abscond or
 commit an additional offense
 Lives at home
 Persons with custody cannot be located

21) Sixteen-year-old male
 Committed a major status offense
 No previous offense
 Considered cooperative and not likely to abscond or
 commit an additional offense
 Does not live at home
 Persons with custody are located and cooperative

22) Seventeen-year-old female
 Committed a major delinquency offense
 No previous offense
 Considered cooperative and not likely to abscond or
 commit an additional offense
 Lives at home
 Persons with custody cannot be located

23) Thirteen-year-old male
 Committed a minor status offense
 Known to have committed a previous offense
 Considered uncooperative and likely to abscond or
 commit an additional offense
 Does not live at home
 Persons with custody cannot be located

QUESTIONNAIRE #2

A few months ago you were given a questionnaire that primarily surveyed your opinions and attitudes about detention and shelter care. This questionnaire focuses on your opinions and attitudes specifically regarding the procedures, practices, and policies of detention and detention decision-making.

Again, detention refers to temporary care of youth under the age of eighteen in physically restricting facilities, pending court disposition, return to home, or transfer to another jurisdiction. The decision to detain a youth may be made by either law enforcement or probation and should not be confused with referral to a physically unrestricting facility such as a group care facility.

1. Judicial District # _____

2. Counties served by you and your probation staff:

3. Number of Probation Staff including Probation Officers

4. Law enforcement agencies that you and your probation staff work with in regard to detention of youth: (please list all agencies involved)

a. _____

b. _____

c. _____

d. _____

e. _____

f. _____

g. _____

h. _____

i. _____

j. _____

A. This first section deals with your department's policies concerning detention of youth. A policy here is referred to as a standing set of procedures for dealing with youth who may be detained. The policy can be written or unwritten but is generally understood by the personnel who decide whether or not a youth should be detained.

1. Is your detention policy written or unwritten?

Written _____

Unwritten _____

--If written, it would be a great help if you could send us a copy of the policy along with the questionnaire.

--If unwritten, please outline some of the policy's major points on the back of this sheet.

2. Which agencies or personnel were involved in the development of your detention policy whether written or unwritten? (Please check those that apply.)

_____ Probation

_____ Law Enforcement

_____ District Attorney

_____ Youth Court Judge

_____ Welfare

_____ Others (Please specify.) _____

3. Did you feel that this policy was usually followed by law enforcement agencies in your jurisdiction during the last 12 months?

Yes _____ Please skip to Part B.

No _____ Please move on to Question 4.

4. If you feel that law enforcement did not usually follow detention policies within the last 12 months, we would appreciate more information on this situation.

What ways do you believe these policies were not followed?	Why do you believe these policies were not followed?	What do you think needs to be done to improve the situation?
--	--	--

a.

a.

b.

b.

c.

c.

d.

d.

B. We are interested in knowing how many detention decisions were made by your department and law enforcement agencies within the last 12 months in your jurisdiction. Further, it would be helpful to know if these numbers are based on estimates or information from your records.

1. First, how many youth were detained in your jurisdiction during the last 12 months?

_____ youth

2. Of these youth, how many detention decisions were there made by your department?

_____ youth

3. Of the remaining youth, how many detention decisions were there made by law enforcement?

_____ youth

4. Were the answers given in questions 1, 2, & 3 based on estimates or on information from your records. (Please check the one that applies.)

Estimate _____

Information from records _____

5. How do you feel about law enforcement making detention decisions in your jurisdiction? Do you approve or disapprove or what? (Please circle the number above the statement that best matches your opinion.)

1

2

3

strongly disapprove

disapprove

neither

4

5

approve

strongly approve

D. If law enforcement made any of the decisions to detain youth during the last 12 months, would you please check the one statement under #1 that most accurately reflects when law enforcement generally notified your department of that decision. We also realize that there may be exceptions to this that may have delayed the notification. Therefore, under #2, we have a list of possible exceptions. If you feel that any of these may apply to you, then check the appropriate exception(s).

For example, if law enforcement generally notified your department within 24 hours of a detention decision except on week-ends or in rural areas, then you would check "within 24 hours after detaining" under #1, and check "on weekends" and in rural areas" under #2.

1. When did law enforcement generally notify you of a detention decision within the last 12 months. (Please check the one statement that best fits your situation.

____ Prior to
____ detaining

____ Within 24
____ hours after
____ detaining

____ Within 48
____ hours after
____ detaining

____ Law enforcement did not
____ notify probation
____ of detention decisions

____ Other (Please
____ specify.)

2. Now that you have indicated the general practice of law enforcement's notifying your department, would you please mark the exceptions to this rule that may apply.

____ On weekends:

____ On holiday:

____ After regular
____ hours

____ In rural
____ areas

____ In the
____ cities

____ With certain
____ law enforcement
____ agencies

____ With certain
____ law enforcement
____ personnel.

____ Other
____ (Please
____ Specify)

- E. "Twenty-four hour intake" is defined as a procedure wherein the probation department develops a means for conducting intake interviews with youth immediately (within a few hours and at anytime) after they are referred either by law enforcement or some other source, for example, parents. It is the probation officer who conducts the intake interview with the youth and decides what will be done immediately with the youth. For example, with a 24-hour intake procedure, the probation officer and no one else may decide to return the youth home or to detain him/her overnight.

The following questions are designed to find out how many probation departments have a 24-hour intake procedure and how many do not. We also want to know if this procedure is desirable or realistic.

1. Did your probation department have a 24-hour intake procedure operating at any time during the last 12 months?

Yes _____ Please skip to question #3.
No _____ Please move to question #2.
2. Is your probation department planning to develop a 24-hour intake procedure at any time during the next 12 months?

Yes _____ Please move to question #3.
No _____ Please skip to question #4.
3. If you had operated a 24-hour intake procedure or are planning to develop one, we would like to know how it was operated or how you plan to operate it. Please check the one statement that most accurately reflects the type of procedure that you have been operating or plan to operate.

_____ 24-Hour intake with a probation officer physically present on a 24-hour basis to conduct intake interviews.

_____ 24-Hour intake with a probation officer who can be called to conduct intake interviews.

_____ Probation officer who is on call and can be contacted by phone to conduct an intake interview over the phone on a 24-hour basis.

_____ Other(Please specify.) _____

4. If your department does not have or is not planning to develop a 24-hour intake procedure, we would be interested in why this is the case. A number of statements are listed below, all of which deal with reasons for not developing a 24-hour intake procedure. Please read each statement and indicate your honest and candid reaction -- that is, do you agree or disagree, or what? Circle the number of the one response that comes closest to matching your opinion, based on the following scale:

1 = Strongly Disagree (SD)

2 = Disagree (D)

3 = Neither (N)

4 = Agree (A)

5 = Strongly Agree (SA)

	SD	D	N	A	SA
a. It is usually not necessary to contact a youth right after he or she has been apprehended	1	2	3	4	5
b. We do not have the staff to handle a 24-hour intake procedure	1	2	3	4	5
c. Distances are too great to have a 24-hour intake procedure	1	2	3	4	5
d. Law enforcement is usually able to make the right detention decision	1	2	3	4	5
e. Law enforcement, rather than the probation department, should be responsible for making the detention decision	1	2	3	4	5
f. Other (Please specify.)					

_____	1	2	3	4	5

- F. This is the final section of this questionnaire and we want to thank you for bearing with us so far. The earlier parts of the questionnaire dealt with who made the decisions to detain and for what reasons. In this section we would like to explore with you the concept of detention hearings and whether or not they are realistic or practical.

A detention hearing is referred to as a hearing where it is decided if detention should be continued or not and occurs between the time the youth is detained and when a disposition is made by the youth court judge or probation officer. We realize that such a procedure is not required by law, but that some jurisdictions may have such a procedure.

1. During the last 12 months, did your department conduct any detention hearings?

Yes _____ Please move to question #2.

No _____ Please skip to question #3.

2. If any detention hearings were conducted, we are interested in knowing the total number of youth who had detention hearings.

Total # of youth detained during the last 12 months who had detention hearings: _____

3. Whether or not detention hearings were conducted in your jurisdiction during the last 12 months, we are interested in your opinions about detention hearings. Listed are a number of statements regarding detention hearings and we would like you to indicate your reaction to each one -- do you agree, disagree, or what?

For each statement listed, circle the one response that comes closest to matching your opinion, based on the scale:

1 = Strongly Disagree (SD)

2 = Disagree (D)

3 = Neither (N)

4 = Agree (A)

5 = Strongly Agree (SA)

	SD	D	N	A	SA
a. There is no need for a detention hearing since youth are detained for a short time generally.	1	2	3	4	5
b. There is no need for a detention hearing because youth will be released at the appropriate time.	1	2	3	4	5
c. There is no need for a detention hearing because youth will only "use" it to their own advantage.	1	2	3	4	5
d. If detention hearings were held, the youth court judge should preside.	1	2	3	4	5
e. If detention hearings were held, the chief probation officer should preside.	1	2	3	4	5
f. If detention hearings were held, the youth should have legal counsel present.	1	2	3	4	5
g. There should be a detention hearing for all youth held for 24-hours.	1	2	3	4	5
h. There should be a detention hearing for all youth held for 72 hours.	1	2	3	4	5
i. It is impractical to have detention hearings with the youth court judge presiding in rural areas.	1	2	3	4	5
j. It is impractical to have detention hearings with the chief probation officer presiding in rural areas.	1	2	3	4	5
k. It is not practical to have detention hearings in rural areas.	1	2	3	4	5
l. It is really only necessary for the probation officer to make the decision to release the youth from detention since he is the person most familiar with the case anyway.	1	2	3	4	5
m. If detention hearings were held, the main basis for determining if a youth should be released is the youth's attitude.	1	2	3	4	5

	SD	D	N	A	SA
n. If detention hearings were held, the main basis for determining if a youth should be released is whether or not the youth committed the offense in question.	1	2	3	4	5
o. If detention hearings were held, the main basis for determining if a youth should be released is whether or not the youth can be released to a responsible adult.	1	2	3	4	5
p. If detention hearings were held, the parents or guardians should always be present, if possible.	1	2	3	4	5
q. A detention hearing should be held for all youth detained who are accused of committing major offenses.	1	2	3	4	5
r. A detention hearing should be held for all youth who are detained, regardless of the type of alleged offenses.	1	2	3	4	5
s. A detention hearing is necessary to protect the rights of youth detained.	1	2	3	4	5
t. If detention hearings were held, the youth court judge should appoint a qualified neutral referee from the community to preside.	1	2	3	4	5
u. Juveniles should be afforded the right to bail, just like adults.	1	2	3	4	5
v. Other opinions about detention hearings (Please specify.)					

_____	1	2	3	4	5

_____	1	2	3	4	5

Again, thank you for taking some time out of your day to answer these questions. It is our hope that the information we gain will allow us to develop a better understanding of your feelings, attitudes, preferences, and problems in relation to detention of juveniles.

(excerpt from thesis by John H. Wilkenson,
University of Denver, May 1976)

PRESENTATION OF FINDINGS

The purpose of this chapter is to present and to discuss findings. The material is organized as follows: first are the findings related to the attitude scales; second are the findings on the hypothetical situations involving shifts from today's detention decisions to preferred predispositional placement of youth; and, third is a summary of the data collected from Chief Probation Officers (C.P.O.s) regarding practices, policies, and attitudes toward a number of aspects of detention.

PART I: ATTITUDES TOWARD DETENTION AND EMERGENCY PLACEMENT

Before reporting on the findings, some clarification is necessary. The terms shelter care and emergency placement will be used interchangeably. The former is more generic while the latter has been used more commonly in Montana.

Most of the data reported in Part I are in the form of tables. These tables are reproductions of computer

print-outs of the CROSSTABS subprogram from the Statistical Package for Social Sciences (SPSS) program. For those persons who are unfamiliar with the format, the following should be kept in mind. The variable number, which appears as VAR, merely identifies the variable. Within each cell of a table are four numbers which are: (1) the number of individuals responding; (2) the row percentage; (3) the column percentage; and, (4) that particular cell's percentage of the total cells. However, the critical values for this analysis are the number of individuals responding and the column percentages. The numbers appearing down the stub of the tables are the classes under which scale scores have been grouped.

At the bottom of each table two values appear, Chi Square and Gamma. Chi Square indicates the level of significance of the observed association between the two variables. Chi Square values with a probability less than or equal to .05 are considered significant. Gamma is a measure of the correlation between the two variables. In interpreting Gamma, the following conventions have been observed:¹

+.70 or higher	A very strong positive association
+.50 to +.69	A substantial positive association
+.30 to +.49	A moderate positive association
+.10 to +.29	A low positive association
+.01 to +.09	A negligible positive association
.00	No association
-.01 to -.09	A negligible negative association
-.10 to -.29	A low negative association
-.30 to -.49	A moderate negative association
-.50 to -.69	A substantial negative association
-.70 or higher	A very strong negative association

OBJECTIVES OF EMERGENCY PLACEMENT AND DETENTION

The Objectives of Emergency Placement Scale and the Objectives of Detention Scale measured the respondent's perception of what detention and shelter care can realistically achieve. In other words, how discriminating was the respondent in his or her views regarding the objectives of detention or shelter care. A high score was obtained by registering indiscriminating approval of a disparate set of objectives of detention or of shelter care. Respondents who were selective in their approval of particular objectives scored low on each of these scales. These respondents recognized that detention and shelter care can only achieve a limited number of aims.

A given system of treatment or care can be effective only within certain limits. If a decision maker were to perceive that system of care or treatment as being effective beyond those limits, i.e., being able to do all things for all youth, then excessive placement of youth could result. This would be especially true if adequate safeguards against wholesale placements were not intact.

Since all groups of respondents were administered this questionnaire, it was felt that analysis would be better facilitated by combining all law enforcement personnel together as one group and Aftercare Counselors, S.R.S. caseworkers, and Probation Officers together as another group. This latter group was referred to as Social

Services.

Table 17 indicates there was a moderately negative relationship between these groups (-.42). Law Enforcement showed a tendency toward undiscriminating views on the Objectives of Detention Scale and Social Services indicated a higher level of discrimination.

There was no significant relationship between Law Enforcement and Social Services on the Objectives of Shelter Care Scale. Furthermore, when these two scales were compared with county size, no significant relationship resulted.

In terms of the Objectives of Detention Scale, the finding was in keeping with the expectation that those not having an orientation toward treatment and rehabilitation would be less discriminating or clear about those objectives. The lack of a significant relationship on the Objectives of Emergency Placement Scale was not in keeping with expectations since the same basic principles should have applied in emergency placement decisions as in detention decisions.

INFORMATION NECESSARY TO MAKE

DETENTION AND SHELTER CARE DECISIONS

There are several ways of viewing the dimension measured in this scale. It was found that after item analysis was completed the retained information items were characterized as being extra-legal in nature. That is, a high score would seem to indicate that the decision maker would consider as

Table 17

***** VARIOUS OBJECTIVES OF DETENTION *****					***** C R O S S T A B U L A T I O N O F BY AGENCY *****				
					AGENCY				
COUNT									
ROW X	COL X	TOT X	LAW ENFO	SOCIAL S	IRCEMENT	ERVICE	ROW	TOTAL	
VAR105					11	21			
1			23	44				67	
			34.3	65.7				58.3	
			46.0	67.7					
			20.0	38.3					
2			27	21				48	
			56.3	43.8				41.7	
			54.0	32.3					
			23.5	18.3					
COLUMN									
TOTAL					50	65		115	
					43.5	56.5		100.0	
CORRECTED CHI SQUARE =					4.61294				
GAMMA =					0.42190				
					WITH 1 DEGREE OF FREEDOM				
					SIGNIFICANCE = .05				

important information not specifically related to the offense or situation in question. In some respects, this scale was similar to the previous one, i.e., how discriminating the respondent was in terms of critical information, as opposed to viewing all sorts of information as being important. Therefore, for purposes of this explication, a high score indicated an indiscriminating view of what information is necessary of an extra-legal nature in making detention and emergency placement decisions, while a low score would indicate a discriminating view of information of an extra-legal nature in making the above decisions.

When making detention and shelter care decisions, it is important to look beyond simply the offense. For example, returning a runaway home without considering what factors within the home might have caused the youth to run away would be negligent. However, an over-concern with social factors (or extra-legal factors) is indicative of stereotyping behavior. For example, if a decision maker thought that the source of the parents' income, like public assistance, was important in making detention and shelter care decisions, the likelihood of that being a fairly spurious piece of information would be high.

The scale on detention information was administered to law enforcement and corrections, while the scale on emergency placement information was administered to corrections

Table 18

***** C R O S S T A B U L A T I O N O F
VAR104 INFORMATION NECESSARY TO OBTAIN BY AGENCY

		AGENCY				
COUNT						
ROW %		LAW				ROW
COL %		ENFORCE-		CORREC-		TOTAL
TOT %		MENT		TIONS		
VAR104						
1	I	2	I	1	I	3
	I	66.7	I	33.3	I	3.2
	I	4.0	I	2.3	I	
	I	2.1	I	1.1	I	
	-I-	-I-	-I-	-I-	-I-	
2	I	4	I	14	I	18
	I	22.2	I	77.8	I	19.1
	I	8.0	I	31.8	I	
	I	4.3	I	14.9	I	
	-I-	-I-	-I-	-I-	-I-	
3	I	14	I	18	I	32
	I	43.8	I	56.3	I	34.0
	I	28.0	I	40.9	I	
	I	14.9	I	19.1	I	
	-I-	-I-	-I-	-I-	-I-	
4	I	16	I	8	I	24
	I	66.7	I	33.3	I	25.5
	I	32.0	I	18.2	I	
	I	17.0	I	8.5	I	
	-I-	-I-	-I-	-I-	-I-	
5	I	14	I	3	I	17
	I	82.4	I	17.6	I	18.1
	I	28.0	I	6.8	I	
	I	14.9	I	3.2	I	
	-I-	-I-	-I-	-I-	-I-	
COLUMN		50		44		94
TOTAL		53.2		46.8		100.0

HI SQUARE = 15.85482 WITH 4 DEGREES OF FREEDOM SIGNIFICANCE = 0.0032
GAMMA = -0.53073

and S.R.S. caseworkers. Table 18 indicates that there was a substantial negative association between law enforcement and corrections in terms of Information Necessary to Make Detention Decisions with a Gamma of $-.53$ and a Chi Square at the .003 level of significance. Law enforcement, therefore, tended to use extra-legal information indiscriminately when making these decisions, whereas corrections tended to use such information more selectively.

County size had little bearing in terms of information for detention decisions.

Table 19, Information Necessary for making Emergency Placement Decisions Scale, indicated a very strong relationship between corrections and S.R.S. caseworkers (.71). Caseworkers tended to score very high (76.2% in the highest range) while corrections tended to score substantially lower.

This is difficult to explain, but may partially be grounded in the fact that even though the questionnaire referred to youths aged 10-17, the preponderant number of emergency care placements occur with youths under that age. Therefore, with a more protective orientation, the S.R.S. caseworker may have a tendency to be overly cautious so as to avoid further exploitation of the child. However, such an orientation may also be indicative of an overly protective attitude. The disproportionately high percentage of youth in foster care in Montana provides some justification for this interpretation.

Table 19

* * * * * C R O S S T A B U L A T I O N O F *
 VAR107 INFO NEEDED FOR EMERGENCY PLACEMENT BY AGENCY
 * * * * *

		AGENCY		SRS		ROW
COUNT	I			CASE-		TOTAL
ROW %	I			WORKERS		
COL %	I	CORREC-	I			
TOT %	I	TIONS	I			
VAR107	I		I		I	
1	I	12	I	1	I	13
	I	92.3	I	7.7	I	20.0
	I	27.3	I	4.8	I	
	I	18.5	I	1.5	I	
	I		I		I	
2	I	18	I	4	I	22
	I	81.8	I	18.2	I	33.8
	I	40.9	I	19.0	I	
	I	27.7	I	5.2	I	
	I		I		I	
3	I	14	I	16	I	30
	I	46.7	I	53.3	I	46.2
	I	31.8	I	76.2	I	
	I	21.5	I	24.6	I	
	I		I		I	
COLUMN		44		21		65
TOTAL		67.7		32.3		100.0

CHI SQUARE = 11.67323 WITH 2 DEGREES OF FREEDOM SIGNIFICANCE = 0.0029
GAMMA = 0.71429

Table 20

C R O S S T A B U L A T I O N O F									
VAR104 INFORMATION NECESSARY TO DETAIN BY SIZE									
		SIZE							
COUNT	ROW X	LARGE	MEDIUM	SMALL	ROW TOTAL				
COL X									
TOT X		11	21	31					
VAR104									
1		14	3	4	21				
		66.7	14.3	19.0	22.3				
		34.1	13.6	12.9					
		14.6	5.2	4.3					
2		15	5	12	32				
		46.9	15.6	37.5	34.0				
		36.6	22.7	38.7					
		16.0	5.3	12.8					
3		12	14	15	41				
		29.3	34.1	36.6	43.6				
		29.3	63.6	48.4					
		12.8	14.9	16.0					
COLUMN TOTAL		41	22	31	94				
		43.6	23.4	33.0	100.0				

CHI SQUARE = 9.76200 WITH 4 DEGREES OF FREEDOM SIGNIFICANCE = 0.0444

GAMMA = 0.31944

Table 20 which breaks this attitude out by county size sheds some additional light. There was a moderate negative association, (.32), indicating that the medium and small sized counties tended to be less discriminating in terms of extra-legal information when making emergency placement decisions than the smaller counties. Caseworkers in medium and small counties, one might conclude, tended to be the least discriminating on this measure. In smaller counties there may be some reluctance or inability to work more closely with parents, thus leaving the door open to stereotyping behavior. At issue may also be level of training and education and its effects on placement decisions.

OPINIONS ON DETENTION AND SHELTER CARE

These scales fairly clearly measured the dimension of security orientation. In other words, the decision maker who scored high on this dimension would very likely tend to place a youth in detention prior to consideration of less secure placements.

Table 21 compared law enforcement and corrections on this measure. This table shows the highest degree of association thus far encountered. Law enforcement, predictably, scored very high in terms of security orientation while corrections scored fairly low. The Chi Square was significant beyond the .001 level and was further reinforced by a Gamma of $-.77$ indicating a very strong negative association.

Table 21

***** C R O S S T A B U L A T I O N O F
 VAR108 OPINIONS ON DETENTION BY AGENCY

		AGENCY				
	COUNT	I				
	ROW %	I	LAW			ROW
	COL %	I	ENFORCE-	CORREC-		TOTAL
	TOT %	I	MENT	TIONS	I	
VAR108	-----	I	-----	I	-----	I
	1	I	4	I	19	I 23
		I	17.4	I	82.6	I 24.5
		I	8.0	I	43.2	I
		I	4.3	I	20.2	I
		-I	-----	-I	-----	-I
	2	I	13	I	18	I 31
		I	41.9	I	58.1	I 33.0
		I	26.0	I	40.9	I
		I	13.9	I	10.1	I
		-I	-----	-I	-----	-I
	3	I	33	I	7	I 40
		I	82.5	I	17.5	I 42.6
		I	66.0	I	15.9	I
		I	35.1	I	7.4	I
		-I	-----	-I	-----	-I
	COLUMN		50		44	94
	TOTAL		53.2		46.8	100.0

CHI SQUARE = 27.21697 WITH 2 DEGREES OF FREEDOM SIGNIFICANCE = 0.000
 GAMMA = -0.76974

The major policy implication of this finding is the propriety of law enforcement to making detention decisions. Further, if correctional personnel are using information supplied by law enforcement as the primary basis for making a determination on detention, they should be guarded as to law enforcement's orientation.

Corrections and S.R.S. caseworkers were independent of one another on security orientation in relation to emergency placement decisions. They both showed a moderate security orientation in terms of their overall scores. There was no relationship in terms of county size.

INTERRELATIONSHIP OF SCALES

Comparisons between scales were made in order to determine whether there was a relationship between them. There were three scales that intercorrelated with one another, i.e., indicating that a given respondent's score on one scale would predict the respondent's score on another scale. The Information Necessary to Detain Scale had a very high positive relationship with the Information Necessary to Make Emergency Placement Decisions Scale (+.75). Therefore, if a respondent tended to be indiscriminating in the Information Considered Necessary When Making Detention Decision Scale, for example, he would likewise be indiscriminating when making emergency placement decisions.

There was a moderately positive relationship between

the Information Necessary to Make Detention Decisions Scale and the Objectives of Detention Scale (.49). One might infer that since both scales measure discrimination that a respondent, for example, who was selective in his approval of particular objectives of detention, would also be selective in information used in determining if a youth should be placed in detention.

Finally, there was a substantial positive relationship between the Information Necessary to Make Emergency Placements Scale and the Objectives of Detention Scale (.65). This suggests that by viewing the other two sets of comparisons an inference could be made that those primarily from social services tend to be selective in the same manner on information and objectives irrespective of shelter care or detention.

Since the three scales measure discrimination of perception of placement objectives or information relevant to placement decisions, the observed intercorrelations of these three scales were to be expected. Furthermore, the differences in the three correlations may be attributed to the differential homogeneity of the sub-samples upon which the correlations were based. The lowest correlation (.49) is based on the scores of law enforcement and correctional staffs; the next correlation (.65) is based on the scores of corrections and S.R.S. caseworkers; and the highest correlation (.75) was based on the scores of correctional staff only.

SUMMARY

In general, the relationships between scale measures and agencies proved to be moderate to very strong. Size of county proved not to be a very good predictor of responses on dimensions, but in one instance, shed additional light on agency relationships. However, the lack of relationship between county size and response served to further reinforce agency roles in decision making.

As expected, law enforcement scored highest on all dimensions (except on the Objectives of Shelter Care Scale) since their training and orientation are in the direction of enforcement and security. However, if correctional and social service agencies abdicate their responsibilities to law enforcement, then appropriate predispositional placements would likely not be the rule.

One finding of some interest was the degree to which social services relied on extra-legal kinds of information in making emergency placement decisions. Perhaps the lack of written criteria for making such decisions is an additional factor that should be considered in terms of policy. In rural areas there may be a need for intensive staff development on emergency placements.

Another point in relation to this phenomenon is social workers' orientation to "inputs" versus "outputs". In general, social workers are, by training, sensitized to factors that have a bearing on social dysfunctioning. For

example, if factors X,Y, and Z are present (inputs) then a certain situation might result, which necessitates a given intervention. However, a different orientation is necessary for emergency placement decisions since the nature of that intervention is in itself a traumatic one to the child and family. Therefore, greater focus needs to be made on "outputs". In other words, criteria need to be developed that in effect state that unless, for example, a given child will be further exploited, act-out, or run away (outputs), then an emergency placement will not be beneficial. Perhaps, the data do not directly support these conclusions, but there is little question that caseworkers as a whole are overconcerned with input type data in making shelter care decisions.

PART II: CASE SITUATIONS INVOLVING HYPOTHETICAL YOUTH

The hypothesis on this part of the questionnaire was that probation officers would not significantly shift from detention to shelter care predispositional alternatives (or vice versa) if given the opportunity to do so. The methods utilized in design of the questionnaire and analysis of data were explicated in the previous chapter.

However, the reader should keep in mind certain limitations to these findings. First is the question of hypothetical versus real situations. Presented in these situations

were youth identified by seven factors, none of which we were certain were critical factors affecting decisions. Second, there is an inherent limitation in even asserting there would be a shift from detention to shelter care in the first place. Youth originally placed in detention may need detention and the same with shelter care. But the analysis in Chapter II indicated that Montana ranked fairly high in terms of detention rates nationally, thus leaving the door open as to why.

There are two schools of thought on this subject, neither of which are incompatible. The first states that the reason excessive numbers of juveniles are detained in jail is because no suitable placement alternatives exist. The second school asserts, however, that even given a greater number of alternatives, detention practices will not change because the system that detains juveniles, i.e., law enforcement and probation have not changed.

Therefore, the instrument administered to probation officers tested these assumptions through a format that gave the probation officer an opportunity to change placement patterns.

The findings indicated there was no statistically significant shift. The following is the range of scores of the 27 probation officers who responded to this section. Again, a negative score indicated a shift toward shelter care, while a positive score was a shift toward detention.

<u>Scores</u>	<u>Number of Probation Officers</u>	
-6	0	
-5	0	
-4	2	Total shelter care
-3	3	shifts: 14
-2	5	
-1	4	
0	4	No change: 4
+1	2	
+2	1	
+3	3	Total detention
+4	1	shifts: 9
+5	1	
+6	1	

A Chi Square test of significance for single samples yielded the following:

Shelter Care Shift	Detention Shift
<u>Score</u>	<u>Score</u>
≤ 0 16	≥ 0 11

Chi Square .85 with 1 degree of freedom at the .30 level of significance.

Therefore, the null hypothesis of no significant change was supported even though five more probation officers shifted toward shelter care alternatives than detention alternatives.

PART III: PRACTICES, POLICIES AND ATTITUDES TOWARD DETENTION

This section will briefly report on the findings of the questionnaire mailed to seventeen Chief Probation Officers.

Sixteen of these were returned. The reader is encouraged to consult the complete questionnaire in Appendix C.

Fifty percent reported that their detention policies were written and the other forty percent said they were not. However, most of those who said their policy was unwritten stated that they used the Montana Youth Court Act: section on Places of Detention as their guide. Some written policies did not go much beyond this, other than to put that section of the Act in procedural terms. (See Chapter III for a statement of Section 10-1214.)

The following is a breakdown of those agencies involved in the development of detention policies in the seventeen reporting districts.

AGENCIES INVOLVED IN
DEVELOPING DETENTION POLICY

<u>Agency</u>	<u># of Judicial Districts</u>
Probation	15
Youth Court Judge	13
District Attorney	8
Law Enforcement	7
Welfare	3
Other	4

Most judicial districts involved probation and youth court judges in development of detention policies, with the others listed in descending order. All Chief Probation Officers except one felt that the resultant policy had usually been followed by law enforcement during the previous 12 months.

On the questions pertaining to numbers of youth detained and by whom, four of the sixteen Chief Probation Officers (C.P.O.s) opted not to respond, even though estimates were requested, largely because they had not received 1975 juvenile data from the Board of Crime Control. Twelve C.P.O.s reported detaining a total of 2,447 youth, or an average of 204 youth per judicial district. However, the spread in judicial districts was from 10 youth to 944 youth. Of those total youth, 2,021 or 83% of detention decisions were made by probation, and 426 or 17% of decisions were made by law enforcement. Seven judicial districts reported that law enforcement made no detention decisions. Frankly, it was expected that law enforcement would have played a greater role in detention decisions. An interesting cross check on this finding would be to conduct a survey of jail census data to determine if significant numbers of youth were detained without probation's knowledge.

If a C.P.O. reported that law enforcement made any detention decisions, he was asked for his opinion as to why this was the case. Seventy-five percent, or 6 of the 8 C.P.O.s responding, felt that difficulties in responding after working hours, during week-ends, and on holidays were relatively unimportant reasons. However, they were fairly evenly divided between important and unimportant on not having enough probation staff to cover all hours of the day and difficulties in responding in rural areas as reasons for law

enforcement making detention decisions.

Five Chief Probation Officers (C.P.O.s) in jurisdictions where law enforcement made detention decisions indicated that law enforcement usually notified them prior to detaining a youth and two stated that notification usually came within twenty-four hours. One C.P.O. indicated notification usually occurred forty-eight hours after detention.

However, another question on exceptions to this usual practice was asked. The respondent was not restricted to one exception. Therefore, the exceptions exceeded eight. The following summarizes those exceptions to the usual notification procedure.

Certain law enforcement agencies.....	4
Certain law enforcement personnel.....	4
On week-ends or on holidays.....	3
No exceptions.....	2
Other:	
Lack of qualified help on some shifts.....	1
New officers' lack of knowledge of procedure.....	1

On the whole, C.P.O.s were satisfied with law enforcement's practice of notifying them of detained youth with eight C.P.O.s being either satisfied or very satisfied. One was very dissatisfied, two were neither satisfied or dissatisfied, and five C.P.O.s elected not to respond.

Fifteen of the sixteen C.P.O.s indicated they operated some form of twenty-four hour intake procedure. The other C.P.O. was planning to develop a twenty-four hour intake procedure.

When queried as to what type of procedure they utilized, eight Chief Probation Officers (C.P.O.s) responded that they utilized a probation officer on call who could be contacted by telephone to conduct an intake interview over the telephone on a twenty-four hour basis. Five C.P.O.s indicated they had twenty-four hour intake with a probation officer who could be called to conduct intake interviews. Two C.P.O.s said they operated a procedure that combined the above two. None of the respondents operated twenty-four hour intake with a probation officer physically present on a twenty-four hour basis to conduct intake interviews.

It should be noted that this last type of intake procedure is the most common in urban areas. However, in Montana's rural areas, such a procedure would be difficult to institute.

It would be helpful to summarize findings thus far. First, it appears that detention policies varied widely, ranging from highly formalistic written policies to general "rules of thumb". Some jurisdictions had involvement with a number of other agencies in developing their policy, while most involved their probation department and the youth court judge. However, there was no clear-cut pattern on who was involved in policy development.

There was wide variation on numbers of youth detained. It was apparent that the majority of detention decisions were made by probation, rather than by law enforcement. However,

the only two reasons for law enforcement making detention decisions that were even marginally significant related to inadequate manpower and difficulties in responding in rural areas.

The primary mode of law enforcement's notification of detained youth was prior to detaining, but major exceptions related to certain law enforcement personnel and agencies. Twenty-four hour intake procedures were reported in use by nearly all probation departments, but were predominately the type where the decision was made over the telephone by a probation officer on call. A point deserving further study is to whom the probation officer speaks when conducting an intake interview over the telephone. If only the arresting officer was spoken to in most cases, then some problems could result as was brought in the Findings section on the Attitude Scale.

Nine Chief Probation Officers (C.P.O.s) reported that they conducted detention hearings in their jurisdictions of some kind during the past twelve months. It is not known what specific procedures were utilized. However, the percentage of youth detained who actually had a detention hearing ranged from 1% in one judicial district to 100% in another. Seven judicial districts reported having no detention hearing procedure. Therefore, one must infer that a system of detention hearings is largely non-existent; but this is balanced

by the fact that law does not require they be held except after a petition has been filed.

Attitudes toward Detention Hearings

The last part of the questionnaire was a pool of attitude items relating to detention hearings. The sample was not large enough to justify item analysis, but in effect six categories of issues were addressed. What follows, then, is a statement of that issue with an analysis of how Chief Probation Officers (C.P.O.s) generally replied.

Again, in Likert-type scales, scores range from 1 (strongly disagree) to 5 (strongly agree), with a midpoint of 3 indicating there is neither disagreement nor agreement. However, when reporting aggregate scores, a score within the 3 range usually meant that C.P.O.s were quite divided on a given issue with a number in the disagree range and a like number in the agree range. Therefore, percentages will also be reported where helpful to aid in the presentation.

Are detention hearings necessary? By averaging the responses to the four questions relating to this issue, it was found that generally more C.P.O.s were in favor of detention hearings (47%) than were against (32%) or neutral to them (21%). The average score for the four items was 3.35 indicating a slight inclination to favor detention hearings.

Who should preside at detention hearings if they were held? Three questions were asked. Chief Probation Officers

clearly did not favor appointing a neutral referee. The score of 2.0 placed that squarely in the disagree range. However, neither did Chief Probation Officers (C.P.O.s) strongly favor themselves (2.38) or youth court judges (2.93) to conduct detention hearings. However, percentage-wise, more C.P.O.s favored judges (53%) than any of the other two groups.

What rights should juveniles have in detention hearings? Sixty-nine percent agree that youth should have legal counsel present if detention hearings were held, and nearly all agreed (94%) that juveniles should have their parents or guardians present if possible. Opinions were divided on the questions that detention hearings were necessary to protect the rights of detained youth and that bail should be afforded to juveniles just like adults.

Within what periods of time should detention hearings be held and for what types of youth? Opinion was evenly divided on detention hearings being held within twenty-four hours (3.06), but tended to agree (3.43) that they should be held for all youth held for seventy-two hours. Opinion was fairly evenly divided on hearings for youth who are accused of committing major offenses, but tended to disagree with the idea that detention hearings should be held for all youth regardless of offense (2.63).

What criteria should be employed for releasing a youth from detention? C.P.O.s indicated that the youth's attitude (2.06) and whether or not they had committed the offense in question (1.5)

should not be the main bases for determining release from detention. They were fairly evenly divided on release to a responsible adult being the main basis for release from detention (3.27). Some Chief Probation Officers (C.P.O.s) added criteria of a youth not absconding or being a threat to himself or others as the principle reasons for determining if a youth should be released.

How practical are detention hearings in rural areas? The three questions that addressed this issue failed to resolve what preferences there might have been. The average score of 3.13 reflects this ambiguity. The item C.P.O.s least favorably reacted to was the notion of the youth court judge presiding in rural areas.

The data indicated fairly clearly that overall C.P.O.s were quite divided on almost every issue surrounding detention hearings. Major exceptions to this were the juvenile's right to legal counsel and that parents or guardians should be present if detention hearings were to be held. But this if seems to be a rather sizeable one since the initiation of a detention hearing procedure would, in almost all judicial districts, introduce a substantial change in current practices.

APPENDIX 2

JAIL COSTS IN MONTANA

Prepared for: The Detention and Shelter Care Study
By: Ann Groff, Research Specialist

OFFICE OF BUDGET AND PROGRAM PLANNING

RESEARCH UNIT

April 19, 1976

The counties used in this survey were chosen as to give a representative view of the state, both by geographical location and by population. Since Montana has more small counties (population under 10,000) than large, the sample group was weighted toward counties of that size. The reader will note that there are four counties in group three, (population under 10,000) and only three in the other two groups, which represent the more populated parts of the state.

The information was gathered using two methods. The first method included review of the budgets submitted by the county clerk and recorders for Fiscal Year 1974-75. The second approach used was telephone interviews with county sheriffs and, when necessary, the office of the county clerk and recorder.

There are many disparities from one county budget to the next, especially in separating expenses for the sheriffs' office and the jail. This created a problem in recording comparable figures for the individual offices. In some counties the cost of operating the jail is deducted from the sheriff's budget instead of the Care of Prisoner budget. In such cases, an effort was made to determine the portion of the sheriff's budget that went into the actual jail operation.

It was also difficult to arrive at a precise figure for utility costs. Almost all of the county building complexes, including the jail, are on one meter for electricity and receive heat from a central boiler. This made it difficult to break out a specific utility cost for the jail itself. The estimated utility costs were derived by the researcher in connection with the clerk and recorders office.

One expense excluded from consideration was the jail building. Most of the counties have very old jails, with little cost attached. If these figures were to be included, the cost per prisoner would be slightly higher.

Outside factors also affect cost estimates. For example, considerable cost variation is due to methods of service delivery such as medical services. In some counties a county physician is hired to handle cases dealing with the poor in that county and he is expected to handle the medical needs of the prisoners, but he is not paid to handle the medical needs of the prisoners. In other counties a sick prisoner is taken to the hospital or doctor and the bill is paid out of the sheriff's operations budget. Some counties also allot money for medical expenses in the Care of Prisoners budget.

Another factor that affects the cost per prisoner day is the number of people incarcerated and the period of time they are locked up. In the smaller counties where few people are jailed, the cost per day is high since the jail facility must be maintained whether used or not. Thus, the large counties tend to exhibit lower jail costs since their use factor is higher.

There are limitations on the figures that were arrived at in this research. Yet, hopefully, the statistics that follow will point out to the reader that it is costing more to incarcerate people than the standard figure of \$5.00 a day. Even without including utility cost, the average cost is above \$13.00 a day; with the utility costs it is over \$15.00 a day.

YELLOWSTONE COUNTY

GROUP 1 - population 30,000 and up

Budget Breakdown of Jail Costs:

PERSONNEL

Jail personnel	\$ 84,600.00
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MAINTENANCE AND OPERATION

Food	\$ 30,000.00
Operations	5,000.00
Medical	10,000.00

Sub-total	\$ 45,000.00
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OTHER

Utilities¹

Montana Power (estimated)	\$ 3,000.00
Montana-Dakota Utilities (estimated)	\$ 15,428.52

Sub-total	\$ 18,428.52
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GRAND TOTAL	<u>\$ 148,028.52</u>
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Number of <u>prisoner days</u> for FY 74-75: ²	<u>20,498</u>
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<u>Cost</u> per prisoner day ³	<u>\$ 7.22</u>
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¹ This estimate was arrived at with the county Clerk and Records office, per phone conversation on March 30, 1976. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.

² This figure was received from the head jailer in Yellowstone County.

³ This figure was determined by dividing the number of prisoner days into the total cost.

MISSOULA COUNTY

GROUP 1 - population 30,000 and up.

Budget Breakdown of Jail Costs:

PERSONNEL

Jail personnel (including cook)	\$ 47,914.00
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MAINTENANCE AND OPERATION

Prisoner medical	\$ 6,331.00
Supplies and repairs	2,259.00
Food	11,041.00
Clothing and Bedding	1,032.00

Sub-total	\$ 20,663.00
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OTHER

<u>Utilities</u>	
Gas and electric (estimated) ¹	\$ 6,000.00

GRAND TOTAL	<u>\$ 74,577.00</u>
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Number of <u>prisoners</u> during FY 74-75:	<u>2,692</u>
Number of prisoner <u>days</u> during FY 74-75:	<u>13,911</u>
Average <u>length of stay</u> during FY 74-75:	<u>5.2</u> days
<u>Cost per prisoner day</u> : ²	<u>\$ 5.36</u>

¹ This estimate was arrived at with the county Clerk and Recorder, per phone conversation on March 30, 1976. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.

² This figure was determined by dividing the number of prisoner days in the total cost.

FLATHEAD COUNTY

GROUP 1 - population 30,000 and up.

Budget Breakdown on Jail Costs:

PERSONNEL

2 jailers	\$ 18,000.00
1 cook	7,680.00
Other personnel (estimated) ¹	576.00
	\$ 26,256.00

MAINTENANCE AND OPERATION

Maintenance and Operation (estimated) ²	\$ 12,000.00
Laundry ³	1,500.00
Janitorial ⁴	(janitor) 5,100.00
	(supplies) 1,000.00
	\$ 19,600.00

OTHER

Utilities ⁵	(electric) \$ 3,000.00
	(gas) 2,000.00

Sub-Total \$ 5,000.00

GRAND TOTAL \$ 50,000.00

Number of prisoners during FY 74-75 713

Number of prisoner days during FY 74-75 3,508

Average length of stay during FY 74-75 4.9 days

Cost per prisoner day⁶ \$ 14.49

Flathead County - cont'd

-
- 1 The dispatcher in the Sheriff's office handles some of the jail work. A dispatcher is paid \$600 a month, there are four (4) men working in this capacity. In talking with the Sheriff (March 30, 1976) by phone, he estimated that two percent (2%) of their time was spent on jail business.
 - 2 This estimate is from the Sheriff.
 - 3 Laundry is contracted to a private firm, the bill runs between \$100 and \$150 a month depending on how many men are incarcerated.
 - 4 The jail has one janitor assigned to it. The supplies for the janitor are purchased separately.
 - 5 This estimate was arrived at by the County Clerk and Recorder per a telephone conversation on April 1, 1976. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.
 - 6 This figure was determined by dividing the number of prisoner days into the total cost.

VALLEY COUNTY

GROUP 2 - population 10,000 to 30,000

Budget Breakdown of Jail Costs:

PERSONNEL

Personnel (jailer and cook)¹ \$ 27,321.54

MAINTENANCE AND OPERATION

Supplies, Food, Clothing, Medical² 4,525.30

OTHERS

Utilities (estimation)³ 3,100.00

GRAND TOTAL \$ 34,946.84

Number of prisoners during FY 74075 197

Number of prisoner days FY 74075 1,670

Average length of stay during FY 74-75 8.9 days

Cost per prisoner day⁴ \$20.92

¹ Figure from budget for FY 74-75

² Figure from budget for FY 74-75

³ Utilities estimation based on jail size, pro-rated for a year.

⁴ This figure was determined by dividing the number of prisoner days into the total cost.

GLACIER COUNTY

GROUP 2 - population 10,000 - 30,000.

Budget Breakdown on Jail Costs:

PERSONNEL

Deputy (estimated)¹ \$ 2,799.60

MAINTENANCE AND OPERATION

Board, supplies, other operationsal costs. 4,250.74

OTHER

Utilities (estimated)² 500.00

GRAND TOTAL \$ 7,550.34

Number of prisoners during FY 74-75 114
Number of prisoner days during FY 74-75 781
Average length of stay during FY 74-75 6.8 days
Cost per prisoner day³ \$9.66

¹ A deputy earns \$ 9,332 a year. The Sheriff estimated one deputy spends about thirty percent (30%) of his time with jail duties.

² This estimate was arrived at by the County Clerk and Recorder, per a phone conversation on (March 26, 1976). This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.

³ This figure was determined by dividing the number of prisoner days into the total cost.

RAVALLI COUNTY

GROUP 2 - population 10,000 - 30,000.

Budget Breakdown of Jail Costs:

PERSONNEL

Deputy (estimated) ¹	\$ 5,940.00
---------------------------------	-------------

MAINTENANCE AND OPERATION

Board of Prisoners (food)	8,855.00
Supplies	100.00
Repairs and Supplies	800.00
Medical	1,222.00
Sub-total	\$ 10,977.00

OTHER

Cook ²	\$ 4,173.75
Utilities ³	675.00

GRAND TOTAL	<u><u>\$ 21,765.75</u></u>
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Number of <u>prisoners</u> during FY 74-75	<u>795</u>
Number of prisoner <u>days</u> during FY 74-75	<u>2,812</u>
Average <u>length of stay</u> during FY 74-75	<u>3.5</u> days
<u>Cost</u> per prisoner day ⁴	<u>\$7.74</u>

¹ According to the Sheriff (phone conversation March 29, 1976) a deputy spends approximately 3 hours a day with the jail. A deputy is paid \$5.50 an hour.

² The cooking is contracted out. The cook is paid \$1.75 by the meal.

Ravalli County - cont'd

- 3 This estimate was arrived at with the County Clerk and Records office, per a phone conversation on April 1, 1976. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.
- 4 This figure was determined by dividing the number of prisoner days into the total cost.

BEAVERHEAD COUNTY

GROUP 3 - population up to 10,000.

Budget Breakdown of Jail Costs:

PERSONNEL

Deputy (estimated) ¹	\$ 4,032.00
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MAINTENANCE AND OPERATION

Board of prisoners (food)	1,576.25
Maintenance and operation (includes supplies, clothing, etc.)	4,405.76
Medical (estimated) ²	100.00
Minor repairs	180.00

Sub-total	\$ 6,262.19
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OTHER

Utilities (estimated) ³	\$ 2,100.00
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GRAND TOTAL	<u>\$ 12,394.19</u>
-------------	---------------------

Number of <u>prisoners</u> during FY 74-75	<u>114</u>
--	------------

Number of prisoner <u>days</u> during FY 74-75	<u>600</u>
--	------------

Average <u>length of stay</u> during FY 74-75	<u>5.2</u> days
---	-----------------

<u>Cost</u> per prisoner day ⁴	<u>\$20.65</u>
---	----------------

1

A deputy earns \$840.00 a month, the Sheriff (phone conversation March 26, 1976) assessed 40% of one deputy's time to the jail operation.

2

This figure was determined by the Sheriff.

Beaverhead County - cont'd

- 3 This estimate was arrived at by the County Clerk and Records office, per a phone conversation on March 26, 1976. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.
- 4 This figure was determined by dividing the number of prisoner days into the total cost.

CARBON COUNTY

GROUP 3 - population up to 10,000

Budget Breakdown of Jail Costs:

PERSONNEL

Deputy (estimated) ¹	\$ 2,040.00
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MAINTENANCE AND OPERATION

Board of prisoners (food)	1,500.00
County prisoners (includes bedding, clothing and supplies)	456.75
Medical ²	

Sub-total	\$ 1,956.75
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OTHERS

Utilities (estimated) ³	1,350.00
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GRAND TOTAL	<u>\$ 5.346.75</u>
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Number of <u>prisoners</u> during FY 74-75	<u>102</u>
Number of prisoner <u>days</u> during FY 74-75	<u>276</u>
Average <u>length of stay</u> during FY 74-75	<u>5.4</u> days
<u>Cost</u> per prisoner day ⁴	<u>\$19.37</u>

¹ A deputy is paid \$10,200 a year. The Sheriff estimated that a deputy spends about 20% of his time with jail duties.

² Money was allotted for medical costs during FY 74-75, but none was recorded as being spent.

³ This estimate was arrived at by the County Clerk and Records office,

Carbon County - cont'd

per a phone conversation on April 1, 1976. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.

- 4 This figure was determined by dividing the number of prisoner days into the total cost.

SHERIDAN COUNTY

GROUP 3 - population up to 10,000.

Budget Breakdown of Jail Costs:

PERSONNEL

Sworn officer on duty (estimated) ¹	\$ 909.60
Operator (estimated) ²	2,227.60
	\$ 3,137.20

MAINTENANCE AND OPERATION

Board	\$ 1,361.78
Supplies, Medical, Clothing, Janitorial, etc. (estimated) ³	724.89

OTHER

Utilities ⁴	
fuel oil (estimated)	\$ 2,080.00
electric (estimated)	\$ 2,880.00

Sub-total \$ 4,960.00

GRAND TOTAL \$ 10,183.87

Number of <u>prisoners</u> during FY 74-75	<u>142</u>
Number of prisoner <u>days</u> during FY 74-75	<u>658</u>
Average <u>length of stay</u> during FY 74-75	<u>4.6</u>
<u>Cost per prisoner day</u> ⁵	<u>\$ 15.47</u>

¹ A deputy earns \$ 7,886 a year. The Sheriff estimated that a deputy spends approximately 20 hours a month working on jail business.

² A telephone operator is charged with monitoring the jail. The Sheriff estimated her jail related duties to take fifty percent (50%) of her time.

Sheridan County - cont'd

3

These items come under the Sheriff's budget, not the jail. The Clerk and Records office estimated that ten percent (10%) of the total went for actual jail use.

4

This estimate was arrived at by the Clerk and Records office, per a phone conversation. This is a pro-rated figure taking into consideration the average utility costs and the space occupied by the jail.

5

This figure was determined by dividing the number of prisoner days into the total cost.

MEAGHER COUNTY

GROUP 3 - population up to 10,000

Budget Breakdown of Jail Costs:

PERSONNEL

Deputy (estimated) ¹	\$ 2,196.00
---------------------------------	-------------

MAINTENANCE AND OPERATION

Maintenance and operation ²	153.44
Care of prisoners (food)	85.00
	\$ 238.44

OTHER

Utilities³

GRAND TOTAL	<u>\$ 2,434.44</u>
-------------	--------------------

Number of <u>prisoners</u> during FY 74-75	<u>16</u>
Number of prisoner <u>days</u> during FY 74-75	<u>69</u>
Average <u>length of stay</u> during FY 74-75	<u>4.3</u> days
<u>Cost</u> per prisoner day ⁴	<u>\$35.28</u>

¹ A deputy earns \$ 8,784 a year. The Sheriff (phone conversation March 25, 1976) estimates that a deputy spends twenty-five percent (25%) of his time working on jail business.

² This is twenty percent (20%) of the figure budgeted under the Sheriff's budget.

³ The amount spend for electricity (\$540.00) and propane (\$1,754.00) totals \$ 2,294.00. Due to outside influences the sheriff living in the building and the building serving as the Sheriff's office, it is impossible to figure what the actual utility cost for running the

COST PER PRISONER DAY

<u>COUNTY</u>	<u>COST PER PRISONER DAY</u>	<u>COST PER PRISONER DAY</u> (without utilities)
Yellowstone	\$ 7.22	\$ 6.32
Missoula	5.36	4.92
Flathead	14.37	13.07
Valley	20.92	19.06
Glacier	9.66	9.02
Ravalli	7.74	6.01
Beaverhead	20.65	17.15
Carbon	19.37	14.48
Sheridan	15.50	7.78
Meagher*	35.28	35.28
TOTAL	\$ 156.07	\$ 133.09
AVERAGE COST	\$ 15.60 a day	\$ 13.30 a day

* without utility cost

PRISONERS AND NUMBER OF PRISONER DAYS

	<u>Number of Prisoners</u>	<u>Number of Prisoner days</u>	<u>Average*</u>
<u>GROUP I - (population above 30,000)</u>			
Yellowstone	-0-	20,498	
Missoula	2,692	13,911	5.1
Flathead	713	3,508	4.9
<u>GROUP II - (population between 10,000-30,000)</u>			
Valley	197	1,670	8.9
Glacier	114	781	6.8
Ravalli	795	2,812	3.5
<u>GROUP III - (population up to 10,000)</u>			
Beaverhead	114	600	5.2
Carbon	102	276	2.6
Sheridan	142	658	4.6
Meagher	16	69	4.3

* average length of stay (days)

APPENDIX 3

Home Detention Program Description

The Home Detention Program (home supervision) in St. Louis is an early model for many subsequent community-based detention programs. The program is designed to permit a child to live in the community, under the supervision of a Community Youth Leader (CYL), in lieu of secure detention while awaiting adjudication. The CYLs are individuals recruited from the local community. Utilizing a variety of approaches, they seek to ensure that the youth assigned to their supervision will appear in court at the appointed time and not commit any delinquent acts in the interim period. By keeping caseloads to five or fewer the CYLs are able to provide intensive supervision and support to the families of participants as well as to the children themselves. They maintain contact with school officials and others of a significance to the child. Participants live either in their own homes or a surrogate home.

The nature of the program in many ways determines the criteria for involvement in the program. First, the child's own home or a surrogate home must be available for placement. Second, the parents must express willingness to accept the close supervision which the structure of the program demands. A third criterion is that the case of the child must not be too notorious in the sense that public knowledge of the youth's participation in the program would result in a particularly unfavorable community reaction.

The fourth and fifth criteria are specifically related to the availability of CYLs and their geographic residence. A CYL in the vicinity of the youth's home must be available to take the referred youth onto his

(or her) caseload.

Youth are generally referred from the pool of those already in detention. In St. Louis, the judge of the juvenile court approves all referrals to the program. Recommendations for referrals are made to the judge, via the Detention Hearing Officer or by a committee composed of regular detention staff.

An evaluation ("Final Report and Evaluation of the Home Detention Program, St. Louis, Missouri") revealed that during the first nine months of operation, 308 children (275 boys and 33 girls) participated in the program. Of that group, 71 percent appeared for court at the scheduled hearing time. Twenty-one percent were returned to secure detention and five percent committed a new offense while in the Home Detention Program. The remaining participants were terminated when the petition against them was dismissed. The evaluators note that the cost of maintaining a child in the Home Detention Program was \$4.85 per day as compared with the \$17.54 per day needed to maintain a child in secure detention. The evaluators submit that the Home Detention Program serves as a viable alternative to secure detention.

APPENDIX 4

PROCTOR PROGRAM

The Proctor program, sponsored by the New Bedford Child and Family Services, is an alternative detention program in which the detainee lives with an assigned proctor for the entire period of detention. Acceptance into the program is made on an individual basis and does not depend on the alleged offense. Any child who is not homicidal, suicidal or psychotic is eligible. Referrals are taken from the Department of Youth Services and the Department of Child Guardianship.

The goals of the program are to provide intensive counseling for a girl when she is most in need of it, to give her an opportunity to interact with an individual instead of an institution, to provide her with an advocate who will actively seek a solution to her problems, and to introduce her to an alternative life style.

The ten proctors currently in the program had all been recommended by respected social agencies in the area. Their preparation consisted of three days of intensive training during which time they were involved in role playing, group discussions, and presentations. The topics covered included the juvenile justice and welfare systems, first aid, drug and crisis counseling, nutrition, budget balancing, and insurance. All proctors then signed a one year contract during which time they were expected to work for 32 out of 52 weeks. They are paid \$140/week when off duty, and \$180/week when on. They are allowed to choose their own working schedule but are expected to stay with a child until her period of detention is completed. That may be up to six weeks but averages one month. The proctors are supported by a staff of two supervisors, two social workers, and one part time crisis counselor.

When a youth is accepted into the program she goes immediately to the agency where she is introduced to her proctor, the program, and its rules. At this time it is made clear to her that the agency is available to her at any time, day or night. She receives a routine check-up and must report with her proctor to the agency once a week, but for the rest she is free to participate in whatever activities her proctor has planned. The proctor keeps a daily journal in which she is encouraged to write. One basic rule of the program is that no alternative bed situation is provided for the girl, she must make it in the one home provided. Others rules included:

...every move(or outing) made must first be approved by the agency.

...the girl may have no contact with other detained children.

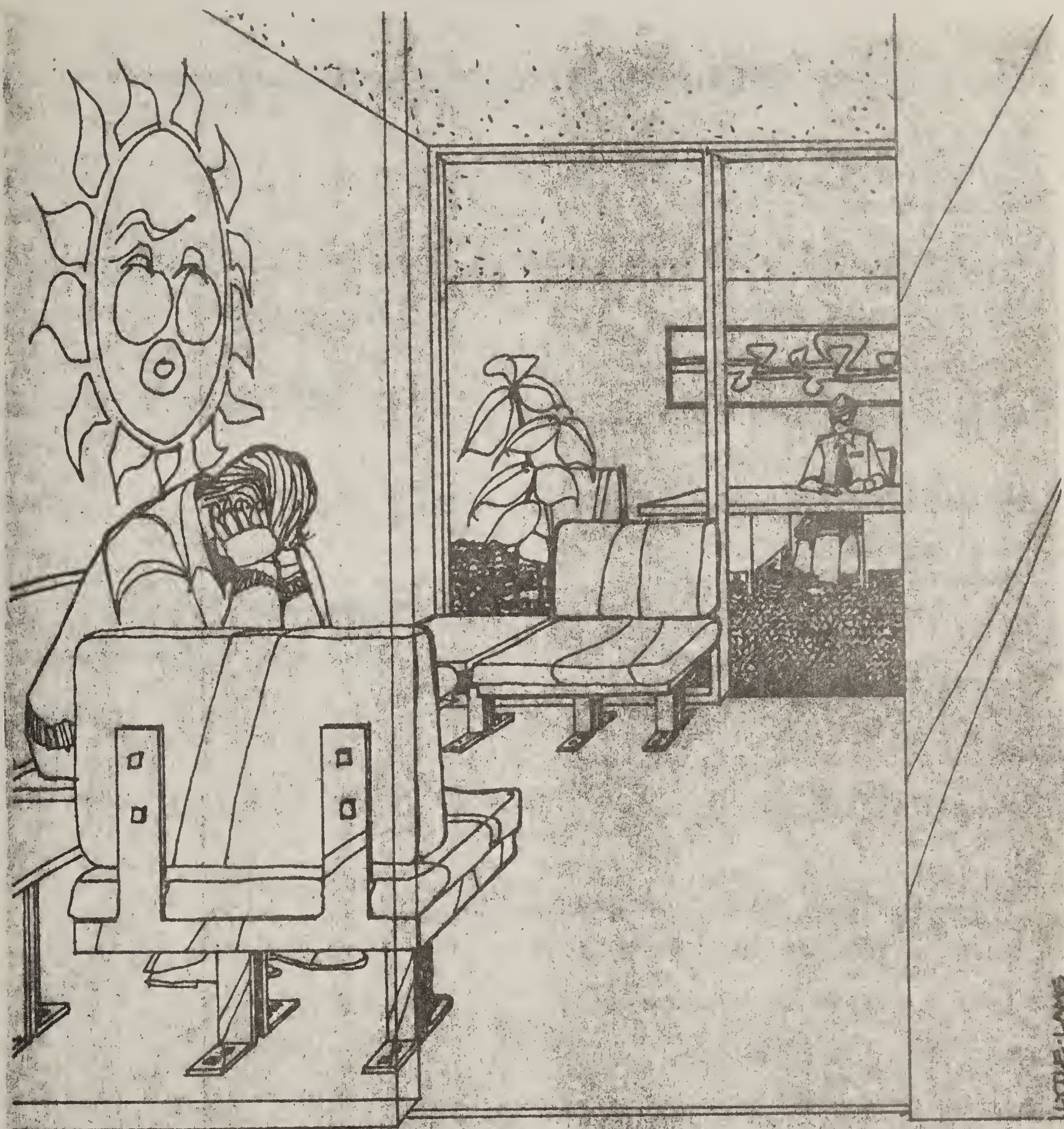
...the girl can receive no visitors or mail at the proctor's home.

A phone strictly for the girls' use is provided for by the agency.

Both the agency and the proctor offer counseling services throughout the detention period and after if it is necessary.

After one year the Proctor program has served 146 girls and has had only nine official runs. The agency feels that the program has been so successful and rewarding that it would like to teach others how to set up a similar program. They do not wish to expand their particular program, for they feel its size is one of its keys to success, but they can see possibilities for a treatment program based on the proctor model. This might take the form of a long term proctor (in which two proctors live with four girls for a year) or a proctor steps (in which one girl lives with a series of proctors for approximately six weeks each, with each move adding additional responsibilities and freedom.)

SMALL JUVENILE DETENTION ROOM - REMODELED IN SMALLER FACILITIES



LITTLE-LANE

temporary holding room:

Rooms for the short-term detention of adult arrestees should be well ventilated. The level of illumination in the temporary holding room should be equivalent to the amount of light in adjacent areas. Holding rooms should normally be equipped with two-way glass panels opening into 24-hour operational area. It is as important for police department staff members to be able to see into the room as it is for the person detained there to be able to see out.

APPENDIX 6

PRESENT SHELTER CARE FACILITIES AND DATA

Mission Valley Receiving Home

Total Budget - \$15,020.41 (expenses)

Staff - 2 houseparents and relief

Capacity - 12 youth

Number of youth - 8½ average per day

Average cost per day - \$4.84

Billings Children Home (Receiving Home)

Total Budget - \$59,251.00

Expenses \$59,330.30

Staff - 2 sets of houseparents

Capacity - 28 youth

Number of youth - 427 Total
222 over 13

Average cost per youth - \$138.94

Great Falls Children's Receiving Home

Budget - \$33,451.70 (expenses)

Staff - 2 sets of houseparents

Capacity - 15 beds

Number of youth - 213

Youth care days - 3,518

Average cost per day - \$9.50

Youth Counseling Center

There is also a new Youth Counseling Center at Ronan. It houses youth age 13-17 for 90 days. Since it just started up there are not cost figures available. This center was started in connection with the Alcohol program operated at Ronan.

Helena Attention Home

Budget - \$49,288 (excluding facility)

Staff - set of houseparents/relief houseparents for 10 days/
1 administrator/1 counselor

Capacity - 8 youth

Number of youth - 106

Youth care days - 2,199

Average cost per day - \$18.23

Butte Soroptomists Home

Budget - \$36,200

Staff -

Capacity - 12 youth

Youth care days - 320 second quarter

Average cost per youth day - \$13.75 second quarter

APPENDIX 7

1. How many youth did you handle over the last 60 days that were in need of shelter care? _____ #
2. We realize that often a number of factors are involved when a youth requires shelter care. However, we would like you to indicate the major reason for the need for placing a youth in shelter care. Below are some possible reasons for this and we would like you to indicate the number of youth who fit in these categories. The total number should be the same as in question #1.

Neglect	_____ #
Abuse	_____ #
Runaway	_____ #
Unavailable responsible adult for release of the youth	_____ #
Other Parent-Child Conflict	_____ #
OTHER (SPECIFY)	
_____	_____ #
_____	_____ #
_____	_____ #
_____	_____ #

3. Of these youth, how many were you able to place in shelter care? (Placements with yourself, friends, relatives, or agency personnel should not be included.) _____ #
4. In how many cases (refer to the preceding question) would you say that the placement was difficult to locate? _____ #

Thank you for your cooperation and time. This information will be valuable in our attempt to provide for adequate, available shelter care in the State of Montana.

SRS RESPONSES

County	# Needed	# Placed	# Difficult
1. Beaverhead	1	0	0
2. Big Horn	13	7	7
3. Blaine	3	0	0
4. Broadwater			
5. Carbon	4	4	4
6. Carter			
7. Cascade	29	23	15
8. Choteau	9	9	4
9. Custer	17	9	7
10. Daniels			
11. Dawson	0	0	0
12. Deer Lodge	3	3	2
13. Fallon			
14. Fergus	9	6	6
15. Flathead	4	3	1
16. Gallatin	5	5	5
17. Garfield			
18. Glacier	2	1	1
19. Golden Valley			
20. Granite	4	4	4
21. Hill	8	2	2
22. Jefferson	4	4	2
23. Judith Basin			
24. Lake	18	8	4
25. Lewis & Clark	27	25	5
26. Liberty			
27. Lincoln	0	-	-
28. Madison	0	-	-
29. McCone			
30. Meagher			
31. Mineral	0	0	0
32. Missoula	28	14	14
33. Musselshell	4	4	0
34. Park			
35. Petroleum			
36. Phillips	3	2	2
37. Pondera	3	1	1
38. Powder River			
39. Powell			
40. Prairie	4	4	0
41. Ravalli			
42. Richland	3	2	1
43. Roosevelt			
44. Rosebud			
45. Sanders	6	2	0
46. Sheridan			
47. Silver Bow	18	18	6
48. Stillwater	0	0	0
49. Sweetgrass	2	2	0
50. Teton	6	6	2
51. Toole	3	2	0
52. Treasure			
53. Valley			
54. Wheatland	4	1	1
55. Wibaux	0	-	-
56. Yellowstone	21	15	9
TOTAL	265	186	104

AFTERCARE RESPONSES

DISTRICT	# Needed	# Placed	# Difficult
# 1 Missoula	4	2	2
# 2 Great Falls	15	5	5
# 3 Havre	7	0	0
# 4 Billings	7	7	7
# 5 Butte	14	7	7
# 6 Helena	20	20	0
# 7 Kalispell	7	0	0
# 8 Glendive	1	1	1
# 9 Bozeman	6	0	0
#10 Polson	4	1	0
TOTAL	85	43	22

PROBATION RESPONSE

JUDICIAL DISTRICT	# Needed	# Placed	# Difficult
# 1 (Helena)			
# 2 (Butte)			
# 3 (Anaconda)	6	1	1
# 4 (Missoula)			
(Hamilton)	5	3	0
(Polson)	17	11	4
# 5 (Dillon)	1	1	0
# 6 (Livingston)	-	12	12
# 7 (Glendive)			
# 8 (Great Falls)			
# 9 (Cut Bank)	9	2	2
(Shelby)	18	1	0
(Choteau)			
#10 (Lewistown)	1	0	0
#11 (Kalispell)	5	5	0
#12 (Havre)			
#13 (Billings)	117	15	10
#14			
#15 (Wolf Point)	0	-	-
#16 (Miles City)	18	3	1
#17 (Glasgow)	0	0	0
#18 (Bozeman)	9	0	0
TOTAL	206	54	30

CHAPTER 12 -- YOUTH COURT ACT

10-1201. Short title. This act may be cited as the "Montana Youth Court Act."

10-1202. Declaration of purpose. The Montana Youth Court Act shall be interpreted and construed to effectuate the following express legislative purposes:

(1) to preserve the unity and welfare of the family whenever possible, and to provide for the care, protection and wholesome mental and physical development of a youth coming within the provisions of the Montana Youth Court Act;

(2) to remove from youth committing violations of the law the element of retribution and to substitute therefore a program of supervision, care and rehabilitation;

(3) to achieve the purposes of (1) and (2) of this section in a family environment whenever possible, separating the youth from his parents only when necessary for the welfare of the youth or for the safety and protection of the community;

(4) to provide judicial procedures in which the parties are assured a fair hearing and recognition and enforcement of their constitutional and statutory rights.

10-1203. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated:

(1) "Adult" means an individual who is eighteen years of age or older.

(2) "Agency" means the department of institutions, the department of social and rehabilitation services, and any division or department of either.

(3) "Commit" means to transfer to legal custody.

(4) "Court," when used without further qualification, means the youth court of the district court.

(5) "Foster home" means a private residence approved by the court for placement of a youth.

(6) "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties and responsibilities.

(7) "Judge," when used without further qualification, means the judge of the youth court.

(8) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to: have physical custody of the youth; determine with whom the youth shall live and for what period; protect, train, and discipline the youth; and provide the youth with food, shelter, education, and ordinary medical care. An individual granted legal custody of a youth shall personally exercise his rights and duties as guardian unless otherwise authorized by the court entering the order.

(9) "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative

father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof;

(10) "Youth" means an individual who is less than eighteen years of age without regard to sex or emancipation.

(11) "Youth court" means the court established pursuant to this act to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision or a youth in need of care, and includes the youth court, the judge and probation officers.

(12) "Delinquent youth" means a youth:

(a) who has committed an offense which, if committed by an adult, would constitute a criminal offense;

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation.

(13) "Youth in need of supervision" means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors; or

(b) habitually disobeys the reasonable and lawful demands of his parents or guardian, or is ungovernable and beyond their control; or

(c) being subject to compulsory school attendance is habitually truant from school; or

(d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

(14) "Youth in need of care" means a youth as defined in section 10-1301.

(15) "Custodian" means a person other than a parent or guardian, to whom legal custody of the youth has been given, but does not include a person who has only physical custody;

(16) "Necessary parties" include the youth, his parents, guardian, custodian or spouse;

(17) "Detention facility" means a residential facility for the detention and rehabilitation of delinquent youth such as Pine Hills School in Miles City and Mountain View School in Helena.

10-1204. Constitutionality. The provisions of this act are separate and severable. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

10-1205. Number and gender. The singular includes the plural, the plural includes the singular, and the masculine includes the feminine unless the context indicates otherwise.

10-1206. Jurisdiction of the court. (1) The court has

exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth; a youth in need of supervision; or a youth in need of care, or concerning any person under twenty-one (21) years of age charged with having violated any law of the state or ordinance of any city or town prior to having become eighteen (18) years of age.

(2) Justice, municipal and police courts shall have concurrent jurisdiction with the youth court over all traffic and fish and game violations alleged to have been committed by a youth except that the following alleged violations are under the exclusive jurisdiction of the court:

(a) driving while intoxicated as defined in section 32-2142, R.C.M. 1947;

(b) failing to stop at an accident as defined in section 32-1202, R.C.M. 1947; and

(c) driving without a valid license or permit as defined in sections 31-125 and 31-127, R.C.M. 1947, after having been previously convicted of the same offense.

10-1207. Venue and transfer. (1) The county where a youth is a resident has initial jurisdiction over any youth alleged to be a delinquent youth; a youth in need of supervision; or a youth in need of care, and the youth court of that county shall assume the initial handling of the case. Transfers of venue may be made to any of the following counties in the state:

(a) the county in which the youth is apprehended or found;

(b) the county in which the youth is alleged to have violated the law;

(c) the county of residence of the youth's parents or guardian.

(2) A change of venue may be ordered at any time by the concurrence of the youth court judges of both counties in order to assure a fair, impartial and speedy hearing and final disposition of the case.

(3) In the case of a youth sixteen (16) years of age or older who is accused of one of the serious offenses listed in section 10-1229, the court in the county where the offense occurred shall serve as a transfer hearing court, and if the youth is to be tried in district court the charge shall be filed and trial held in the district court of the county where the offense occurred.

10-1208. Retention of jurisdiction. Once a court obtains jurisdiction over a youth the court retains jurisdiction unless terminated by the court or by mandatory termination in the following cases:

(1) at the time the proceedings are transferred to adult criminal court;

(2) at the time of commitment of the youth to the custody of the state department of institutions;

(3) in any event, at the time the youth reaches the age of twenty-one (21) years.

10-1209. Intake procedure. (1) Whenever the court receives information from any agency or person based upon reasonable grounds that a youth is, or appears to be a delinquent youth or a youth in need of supervision; or being subject to a court order or consent order, has violated the terms thereof; the probation officer shall make a preliminary inquiry into the matter.

(2) The probation officer may require the presence of any person relevant to the inquiry, and may request subpoenas from the judge to accomplish this purpose. The probation officer may require investigation of the matter by any law enforcement agency or any other appropriate state or local agency.

(3) If the probation officer determines that the facts indicate a youth in need of care, the matter shall be immediately referred to the state department of social and rehabilitation services.

(4) The probation officer in the conduct of the preliminary inquiry shall:

(a) advise the youth of the youth's rights under this act and the Constitutions of the State of Montana and the United States;

(b) determine whether the matter is within the jurisdiction of the court;

(c) determine, if the youth is in detention or custody, whether such detention or custody should be continued.

Once relevant information is secured, the probation officer shall:

(d) determine whether the interest of the public or the youth requires that further action be taken;

(e) terminate the inquiry upon the determination that no further action be taken;

(f) release the youth immediately upon the determination that the filing of a petition is not authorized.

(5) The probation officer upon determining that further action is required may:

(a) provide counseling; refer the youth and his parents to another agency providing appropriate services; or take any other action or make any informal adjustment that does not involve probation or detention;

(b) provide for treatment or adjustment involving probation or other disposition authorized under section 10-1210; provided, however, that such treatment or adjustment is voluntarily accepted by the youth's parents, or guardian, and the youth; and provided further that said matter is referred immediately to the county attorney for review and that the probation officer proceed no further unless authorized by the county attorney;

(c) refer the matter to the county attorney for filing a petition charging the youth to be a delinquent youth or a youth in need of supervision.

(6) A petition charging a youth held in custody or detention must be filed within five (5) working days from the date the youth was first confined or the petition shall be dismissed and the youth released unless good cause is

shown to further detain such youth.

(7) If no petition is filed under this section, the complainant and victim, if any, shall be informed by the probation officer of the action and the reasons therefor and shall be advised of the right to submit the matter to the county attorney for review. The county attorney upon receiving a request for review, shall consider the facts, consult with the probation officer, and make the final decision as to whether a petition shall or shall not be filed.

10-1210. Consent adjustment without petition.

(1) Before a petition is filed, the probation officer may enter into an informal adjustment, give counsel and advice to the youth and other interested parties, if it appears:

(a) the admitted facts bring the case within the jurisdiction of the court;

(b) counsel and advice without filing a petition would be in the best interests of the child and the public.

(2) Any probation or other disposition imposed under this section against any youth must conform to the following procedures:

(a) Every consent adjustment shall be reduced to writing, signed by the youth and his parents or the person having legal custody of the youth.

(b) Approval by the youth court judge shall be required where the complaint alleges commission of a felony or where the youth has been or will be in any way detained.

(3) An incriminating statement relating to any act or omission constituting delinquency or need of supervision made by the participant to the person giving counsel or advice in the discussions or conferences incident thereto shall not be used against the declarant in any proceeding under this act, nor shall the incriminating statement be admissible in any criminal proceeding against the declarant.

(4) The following dispositions may be imposed by informal adjustment:

(a) Probation;

(b) Placement of the youth in a licensed foster home or other home approved by the court;

(c) Placement of the youth in a private agency responsible for the care and rehabilitation of such a youth, including but not limited to, a district youth guidance home;

(d) Transfer of legal custody of the youth to the department of institutions, provided, however, that such commitment shall not authorize the department of institutions to place the youth in a detention facility as defined by this act and such commitment shall not exceed a period of six (6) months without a subsequent order of the court, after notice and hearing.

10-1211. Taking into custody. (1) A youth may be taken into custody under the following circumstances:

(a) by a law enforcement officer pursuant to a lawful order or process of any court;

(b) by a law enforcement officer pursuant to a lawful

arrest for violation of the law;

(c) by a law enforcement officer, agent of the department of social and rehabilitation services, county attorney, or a person or physician treating a youth when there is reason to believe the youth is a youth in need of care and that the residence of the youth or the custody by the person legally responsible for the youth presents an imminent danger to the life or health of the youth.

(2) The taking of a youth into custody is not an arrest except for the purpose of determining the validity of the taking under the constitution of Montana or the United States.

10-1212. Detention of youth. A youth taken into custody shall not be detained prior to the hearing on the petition except when: his detention or care is required to protect the person or property of others or of the youth; he may abscond or be removed from the jurisdiction of the court; he has no parent, guardian, or other person able to provide supervision and care for him and return him to the court when required; or an order for his detention has been made by the court pursuant to this act.

10-1213. Release or delivery from custody. (1) Whenever a peace officer believes, on reasonable grounds, that a youth can be released to a person who has custody of the youth, then the peace officer may release the youth to that person upon receiving a written promise from the person to bring the youth before the probation officer at a time and place specified in the written promise; or a peace officer may release the youth under any other reasonable circumstances.

(2) Whenever the peace officer believes, on reasonable grounds, that the youth must be held in custody, then the peace officer must notify the probation officer without undue delay, and shall, as soon as practicable, provide the probation officer with a written report of his reasons for holding that youth in custody. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held in some place that has been approved by the youth court and completely separated from adult offenders.

10-1214. Place of detention. (1) A youth alleged to be a delinquent youth or youth in need of supervision may be detained only in:

(a) a licensed foster home or a home approved by the court;

(b) a facility operated by a licensed child welfare agency;

(c) a district youth guidance home or other youth facility or center which is under the direction or supervision of the court, other public authority or of a private agency approved by the court; or

(d) a detention facility;

(e) any other suitable place or facility, designated or operated by the court. The youth may be detained in a

jail or other facility for the detention of adults only if: the facilities in subsection (c) or (d) is not available; the detention is in an area separate and removed from those of adults; it appears to the satisfaction of the court that public safety and protection reasonably require detention; the facilities specified in subsection (a) or (b) are not sufficient; and the court so orders.

(2) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen (18) years is received at the facility. Such official shall bring the person before the court upon request or deliver him to a detention facility designated by the court.

(3) A youth alleged to be in need of care shall be placed only in the facilities stated in subsections (a) and (b) of subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of youths alleged to be delinquents or in need of supervision by virtue of violations of the law.

10-1215. Petition--form and content. A petition initiating proceedings under this act shall be signed by the county attorney and shall be entitled, "In the Matter of, a youth," and shall set forth with specificity:

(1) the facts necessary to invoke the jurisdiction of the court together with a statement alleging the youth to be a delinquent or in need of supervision;

(2) the charge of an offense which shall:

(a) state the name of the offense;

(b) cite in customary form the statute, rule, regulation or other provisions of law which the youth is alleged to have violated;

(c) state the facts constituting the offense in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended; and

(d) state the time and place of the offense as definitely as can be done;

(3) the name, birth date and residence address of the youth;

(4) the names and residence addresses of parents, guardian, and spouse, of the youth; and if none of the parents, guardian, or spouse, resides or can be found within the state, or if there is none, the adult relative residing nearest to the court;

(5) whether the youth is in custody, and if so, the place of detention or care and the time he was taken into custody;

(6) if any of the matters required to be set forth by this section are not known, a statement of those matters and the fact that they are not known; and

(7) a list of witnesses to be used in proving the commission of the offense or offenses charged in the petition, together with their residence addresses. The names and addresses of any witnesses discovered after the filing

of the petition shall be furnished to the youth upon request.

10-1216. Summons. (1) After a petition has been filed, summons shall be served directly to the youth; to his parent or parents having actual custody of the youth, or to his guardian or custodian, as the case may be; and to such other persons as the court may direct.

(2) The summons shall require the parties to whom directed to appear personally before the court at the time fixed by the summons to answer the allegations of the petition. The summons shall advise the parties of their right to counsel under the Montana Youth Court Act and shall have attached to it a copy of the petition.

(3) The court may endorse upon the summons an order directing the person or persons having the physical custody or control of the youth to bring the youth to the hearing.

(4) If it appears from any sworn statement presented to the court that the youth needs to be placed in detention or care, the judge may endorse on the summons an order directing the officer serving the summons to at once take the youth into custody and to take him to the place of detention or care designated by the court, subject to the rights of the youth and parent or person having custody of the youth as set forth in the provisions of the Montana Youth Court Act relating to detention criteria and post-detention proceedings.

(5) If any youth is in custody or detained under any provision of this act pending an adjudication, the court, upon petition of the youth, his parents or guardian or his counsel shall, as soon as practicable, conduct a hearing in order to determine whether the circumstances of the case require such custody and the form the custody should take.

10-1217. Service of summons. (1) Any youth who is the subject of a proceeding under this act must be personally served with summons at least five (5) days before the time stated for appearance.

(2) Service of summons on all other persons designated in subsection (1) of section 10-1216 shall be made in accordance with Rule 4 (D) of the Montana Rules of Civil Procedure, except that in all cases service shall be completed at least five (5) days before the time stated for appearance.

(3) If a party referred to in subsection (2) herein is not personally served before a hearing and has not secluded himself with an attempt to delay or disrupt any proceeding under this act, such party may appear within a reasonable time subsequent to the hearing and, on motion to the court, request a rehearing. The motion may be granted at the discretion of the judge if a rehearing would be in the best interest of the youth.

(4) The court may authorize payment from county funds of costs of service and necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

(5) An actual abandonment of a youth by his parent or

parents shall constitute a waiver of summons and notice requirements in this act by the parent or parents. A return endorsed upon the summons showing inability to serve summons in compliance with section 18 (2) of this act constitutes prima facie evidence of actual abandonment.

(6) The youth court may, in the interests of justice, shorten the notice requirements contained herein, and such notice of shortened time shall be endorsed on the summons.

(7) A party, other than the youth, may waive service of summons on himself by written stipulation or by voluntary appearance at the hearing. If the youth is present at the hearing, his counsel may waive service of summons in his behalf.

10-1218. Basic legal rights. (1) When a youth alleged to be a delinquent youth or a youth in need of supervision is taken into custody, the following requirements must be met:

(a) the youth shall be immediately and effectively advised of his constitutional rights and his rights under this Act;

(b) the youth may waive such rights under the following situations:

(i) when the youth is under the age of twelve (12) years, the parents of the youth may make an effective waiver;

(ii) when the youth is over the age of twelve (12) years, and the youth and his parent agree, they may make an effective waiver; and

(iii) when the youth is over the age of twelve (12) years and the youth and his parents do not agree, the youth may make an effective waiver only with advice of counsel.

(c) In a proceeding alleging a youth to be a delinquent youth:

(i) An extra-judicial statement that would be constitutionally inadmissible in a criminal matter shall not be received in evidence;

(ii) Evidence illegally seized or obtained shall not be received in evidence to establish the allegations of a petition against a youth; and

(iii) An extra-judicial admission or confession made by the youth out of court is insufficient to support a finding that the youth committed the acts alleged in the petition unless it is corroborated by other evidence.

(2) Title 95, R.C.M. 1947, shall apply to all law enforcement investigations relating to a complaint alleging a delinquent youth or youth in need of supervision, except that:

(a) No youth shall be fingerprinted or photographed for criminal identification purposes except by order of the youth court judge.

(b) No fingerprint records or photographs shall be filed with the federal bureau of investigation, state of Montana identification bureau, or any other than the originating agency, except for sending the fingerprints or photographs to any law enforcement agency for comparison purposes in the original investigation.

(c) At such time as the proceedings in the matter including appeals, are complete, the fingerprint records and photographs shall be destroyed; except that such fingerprint records and photographs may be retained by the originating agency for a specific period when ordered by the court for good cause shown.

(3) In all proceedings on a petition alleging a delinquent youth or youth in need of supervision as set forth in subsection (1) of this section, the youth, parents and guardian of the youth shall be advised by the court or, in the absence of the court, by its representative that the youth may be represented by counsel at all stages of the proceedings. If counsel is not retained, or if it appears that counsel will not be retained, counsel shall be appointed for the youth, unless the right to appointed counsel is waived by the youth and the parents or guardian. Neither the youth nor his parent or guardian may waive counsel if commitment to a detention facility or a youth forest camp or to the department of institutions for a period of more than six (6) months may result from adjudication.

(4) The court, at any stage of a proceeding on a petition under this act, may appoint a guardian ad litem for a youth if the youth has no parent or guardian appearing in his behalf, or if their interests conflict with those of the youth. A party to the proceeding or an employee or representative of a party shall not be appointed as guardian ad litem.

(5) In a proceeding on a petition, a party is entitled to: the opportunity to introduce evidence and otherwise be heard on the party's own behalf; confront and cross-examine witnesses testifying against the party; and admit or deny the allegations against the party in the petition.

(6) Persons afforded rights under this act shall be advised of those rights and any other rights existing under law at the time of their first appearance in a proceeding on a petition under the Montana Youth Court Act and at any other time specified in the Youth Court Act or other law.

(7) All post trial motions and other remedies available to an adult in a criminal proceeding under the Montana Code of Criminal Procedure shall be available to a youth proceeded against under this act.

10-1219. Time limitations on petition hearing. Unless the allegations of a petition alleging that a youth is a delinquent youth or a youth in need of supervision are determined by a written admission of the allegations by the youth, the petition shall be dismissed with prejudice if a hearing on the petition is not begun within fifteen (15) days after all service is completed. Delays resulting from service of process, or delays resulting from legal actions taken in behalf of the youth, shall not be included in the fifteen (15) day time limitation.

10-1220. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition.

If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses; in the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearings shall be set forthwith and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is before a jury, the jury's function shall be to determine whether the youth committed the contested offenses; if the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court deems appropriate.

(4) The youth charged in a petition must be present at the hearing and if brought from detention to the hearing, shall not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public shall be excluded and only such persons admitted as have a direct interest in the case; except that when a hearing in the court is held on a written petition charging the commission of a felony, persons with a legitimate interest in the proceeding, including representatives of public information media, shall not be excluded from the hearing.

(6) If the court finds on the basis of a valid admission by a youth of the allegations of the petition or if a youth is found to be a delinquent youth or a youth in need of supervision the court shall schedule a dispositional hearing under this act.

(7) When a jury trial is required in a case, it may be held before the regular trial panel. If the regular panel is not in attendance, the court may draw a jury from jury box No. 3.

10-1221. Dispositional hearing. (1) As soon as practicable after a youth is found to be a delinquent youth or a youth in need of supervision, the court shall conduct a dispositional hearing.

(2) Before conducting the dispositional hearing, the court shall direct that a social summary or predisposition report be made in writing by a probation officer concerning the youth, his family, his environment, and other matters relevant to the need for care or rehabilitation or disposition of the case. The youth court may have the youth examined, and the results of the examination shall be made available to the court as part of the social summary or predisposition report. The court may order the examination of a parent or guardian who gives his consent, and whose ability to care for or supervise a youth is at issue before

the court. The results of such examination shall be included in the social summary or predisposition report. The youth, his parents, guardian, or counsel shall have the right to subpoena all persons who have prepared any portion of the social summary or predisposition report and shall have the right to cross-examine said parties at the dispositional hearing.

(3) Defense counsel shall be furnished with a copy of the social summary or predisposition report and psychological report prior to the dispositional hearing.

(4) The dispositional hearing shall be conducted in the manner set forth in section 10-1220, subsections (3), (4), and (5). The court shall hear all evidence relevant to a proper disposition of the case best serving the interests of the youth and the public. Such evidence shall include, but not be limited to, the social summary and predisposition report provided for in subsection (2) of this section.

(5) If the court finds that it is in the best interest of the youth, the youth, his parents, or guardian may be temporarily excluded from the hearing during the taking of evidence on the issues of need for treatment and rehabilitation.

10-1222. Disposition of delinquent youth and youth in need of supervision. (1) If a youth is found to be delinquent or in need of supervision the court may enter its judgment making the following disposition:

(a) place the youth on probation;

(b) place in a licensed foster home or a home approved by the court;

(c) place the youth in a private agency responsible for the care and rehabilitation of such a youth, including, but not limited to, a district youth guidance home;

(d) transfer legal custody to the department of institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody shall not authorize the department of institutions to place the youth in a detention facility and such custody shall not continue for a period of more than six (6) months without a subsequent court order after notice and hearing;

(e) such further care and treatment or evaluation that the court deems beneficial to the youth, consistent with subsection (d) of this section.

(2) At any time after the youth has been taken into custody the court may, with the consent of the youth in the manner provided in section 10-1218 (1), R.C.M. 1947, for consent by a youth to waiver of his constitutional rights, or after the youth has been adjudicated delinquent or in need of supervision:

(a) order the youth to be evaluated for a period not to exceed forty-five (45) days of evaluation at a reception and evaluation center for youths; or

(b) in the case of a delinquent youth sixteen (16) years or older who the court deems a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the

court the youth detention facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed forty-five (45) days for the purpose of evaluation as to the youth's suitability for placement, and order the youth delivered for evaluation to the youth facility designated by the director. If after the evaluation, the department of institutions reports to the court that such child is suitable for placement in a youth forest camp, and if there is space available at a camp, the court may then commit such child directly to the youth forest camp under the terms of commitment of this act. If the department of institutions reports and states the reasons to the court why the youth is not suitable for placement, the youth shall be returned to the court for such further disposition as the court may deem advisable under the provisions of this act. The costs of transporting the youth to the designated youth facility for evaluation and cost of returning the youth to the court shall be borne by the county of residence of the youth.

(3) No youth shall be committed or transferred to a penal institution or other facility used for the execution of sentence of adult persons convicted of crimes except as provided by subsection (2) (b) above.

(4) Any order of the court may be modified at any time.

(5) Whenever the court vests legal custody in an agency, institution or department, it must transmit with the dispositional judgment copies of a medical report, and such other clinical, predisposition or other reports and information pertinent to the care and treatment of the youth.

(6) The order of commitment to the department of institutions shall read as follows:

ORDER OF COMMITMENT

State of Montana, County of, ss:

In the district court for the Judicial District.

On the day of, 19..., ..., a minor of this county, ... years of age, was brought before me charged with, Upon due proof I find that is a suitable person to be committed to the department of institutions.

It is ordered that be committed to the department of institutions until

The names, addresses and occupations of the parents are:

Name	Address	Occupation
------	---------	------------

.....		
.....		

The names and addresses of their nearest relatives are:

.....	
.....	

Witness my hand this day of A.D. 19...

..... (Judge)

10-1223. Disqualification of judges. The statutes of

the state of Montana relating to disqualification of judges in civil proceedings shall apply to all proceedings under this act.

10-1224. Consent decree with petition. (1) At any time after the filing of a petition alleging delinquency or need of supervision, and before the entry of a judgment, the court may, on motion of counsel for the youth, or on the court's own motion, suspend the proceedings and continue the youth under supervision under terms and conditions negotiated with probation services and agreed to by all necessary parties. The court's order continuing the child under supervision under this section shall be known as a "consent decree." The procedures used and dispositions permitted when this section shall conform to the procedure and disposition specified in section 10-1210, R.C.M. 1947, relating to consent adjustments without petition.

(2) If the youth or his counsel objects to a consent decree, the court shall proceed to findings, adjudication and disposition of the case.

(3) If, either prior to discharge by probation services, or expiration of the consent decree, a new petition alleging delinquency or need of supervision is filed against the youth, or if the youth fails to fulfill the expressed terms and conditions of the consent decree, the petition under which the youth was continued under supervision may be reinstated in the discretion of the county attorney in consultation with probation services. In the event of reinstatement, the proceeding on the petition shall be continued to conclusion, as if the consent decree had never been entered.

(4) A youth who is discharged by probation services or who completes a period under supervision without reinstatement of the original petition shall not again be proceeded against in any court for the same offense alleged in the petition, and the original petition shall be dismissed with prejudice. Nothing in this subsection precludes a civil suit against the youth for damages arising from his conduct.

(5) In all cases where the terms of the consent decree shall extend for a period in excess of six (6) months, the probation officer shall submit a report at the end of each six (6) month period which shall be reviewed by the court.

10-1225. Appeals. (1) Any party other than the state may appeal from a judgment of the court to the supreme court in the manner provided by law. The appeal shall be heard by the supreme court upon the files, records, and transcript of the evidence of the juvenile court.

(2) The appeal to the supreme court does not stay the judgment appealed from, but the supreme court may order a stay upon application and hearing consistent with the provisions of this act if suitable provision is made for the care and custody of the youth. If the order appealed from grants the legal custody of the youth to, or withholds it from, one (1) or more of the parties to the appeal, the appeal shall be heard at the earliest practicable time.

10-1226. Court costs and expenses. The following expenses shall be a charge upon the funds of the court or other appropriate agency when applicable, upon their certification by the court:

(1) the costs of medical and other examinations and treatment of a youth ordered by the court;

(2) reasonable compensation for services and related expenses for counsel appointed by the court for a party;

(3) the expenses of service of summons, notices, subpoenas, traveling expenses of witnesses and other like expenses incurred in any proceeding under the Montana Youth Court Act as provided for by law;

(4) reasonable compensation of a guardian ad litem appointed by the court; and

(5) cost of transcripts and printing briefs on appeal.

10-1227. Use of private agencies by public agency. When the legal custody of a youth is vested in a public agency under the provisions of this act the public agency may transfer physical custody of the youth to an appropriate private agency and may purchase care and treatment from the private agency if the private agency submits periodic reports to the public agency covering the care and treatment the youth is receiving and the youth's responses to that care and treatment. These reports shall be made as frequently as the public agency or the court deems necessary but not less often than once each six (6) months for each youth. The private agency shall also afford an opportunity for a representative of the public agency to examine or consult with the youth as frequently as the public agency deems necessary.

10-1228. Probation revocation--disposition. A youth on probation incident to an adjudication that he is a delinquent youth or a youth in need of supervision and who violates a term of such probation may be proceeded against in a probation revocation proceeding. A proceeding to revoke probation shall be done by filing in the original proceeding a petition styled "petition to revoke probation." Petitions to revoke probation shall be screened, reviewed and prepared in the same manner and shall contain the same information as petitions alleging delinquency or need of supervision. Procedures of the Montana Youth Court Act regarding taking into custody and detention shall apply. The petition shall state the terms of probation alleged to have been violated and the factual basis for such allegations. The standard of proof in probation revocation proceedings is the same standard used in probation revocation of an adult and the hearing shall be before the youth court without a jury. In all other respects proceedings to revoke probation are governed by the procedures, rights and duties applicable to proceedings on petitions alleging that the youth is delinquent or a youth in need of supervision. If a youth is found to have violated a term of his probation, the youth court may make any judgment of disposition that could have been made in the original case.

10-1229. Transfer to criminal court. (1) After a petition has been filed alleging delinquency the court may, upon motion of the county attorney, before hearing the petition on its merits, transfer the matter of prosecution to the district court if:

(a) the youth charged was sixteen (16) years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) criminal homicide as defined in section 94-5-101, R.C.M. 1947;

(ii) arson as defined in section 94-6-104, R.C.M. 1947;

(iii) aggravated assault as defined in section 94-5-202, R.C.M. 1947;

(iv) robbery as defined in section 94-5-401, R.C.M. 1947;

(v) burglary or aggravated burglary as defined in section 94-6-204, R.C.M. 1947;

(vi) sexual intercourse without consent as defined in section 94-5-503, R.C.M. 1947;

(vii) aggravated kidnapping as defined in section 94-5-303, R.C.M. 1947;

(viii) possession of explosives as defined in section 94-6-105, R.C.M. 1947;

(ix) criminal sale of dangerous drugs for profit as included in section 54-132, R.C.M. 1947.

(b) a hearing on whether the transfer should be made is held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing will be to the youth court without a jury; and

(c) notice in writing of the time, place and purpose of the hearing is given to the youth, his counsel, and his parents, guardian or custodian at least ten (10) days before the hearing; and

(d) the court finds upon the hearing of all relevant evidence that there are reasonable grounds to believe that:

(i) the youth committed the delinquent act alleged; and

(ii) the seriousness of the offense and the protection of the community requires treatment of the youth beyond that afforded by juvenile facilities; and

(iii) the alleged offense was committed in an aggressive, violent, or premeditated manner.

(2) In transferring the matter of prosecution to the district court the court shall also consider the following factors:

(a) the sophistication and maturity of the youth, determined by consideration of his home, environmental situation, and emotional attitude and pattern of living;

(b) the record and previous history of the youth, including previous contacts with the youth court, law enforcement agencies, youth courts in other jurisdictions, prior periods of probation and prior commitments to juvenile institutions;

(c) the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the youth by the use of procedures, services and facilities

currently available to the youth court.

(3) Upon transfer to district court, the judge shall make written findings of the reasons why the jurisdiction of the court was waived and the case transferred to district court.

(4) The transfer terminates the jurisdiction of the court over the youth with respect to the acts alleged in the petition. No youth shall be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been transferred as provided in this section.

(5) Upon order of the court transferring the case to the district court, the county attorney shall file the information against the youth without unreasonable delay.

(6) If a youth is found guilty in district court of any of the offenses enumerated in subsection (2) (a) of this section and is sentenced to the state prison, his commitment shall be to the department of institutions which shall confine the youth in whatever institution it deems proper.

10-1230. Law enforcement records. (1) All law enforcement records concerning a youth, except traffic records, shall not be open to public inspection nor their contents disclosed to the public unless so ordered by the court.

(2) Inspection of law enforcement records concerning a youth is permitted prior to the sealing of the records by:

(a) a youth court having the youth currently before it in any proceeding;

(b) the officers of agencies having legal custody of the youth and those responsible for his supervision after release;

(c) any other person, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;

(d) Montana law enforcement officers when necessary for the discharge of their immediate duties;

(e) a district court in which the youth is convicted of a criminal offense for the purpose of a presentence;

(f) the county attorney; or

(g) the youth, his parent, guardian or counsel.

10-1231. Youth court records. (1) Youth court records, including social, medical and psychological records, reports of preliminary inquiries, predispositional studies and supervision records of probationers, are open to inspection prior to the sealing of the records only to the following:

(a) the youth court and its professional staff;

(b) representatives of any agency providing supervision and having legal custody of a youth;

(c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;

(d) any court and its probation and other professional staff, or the attorney for a convicted party, who had been a party to proceedings in the youth court when considering the sentence to be imposed upon such party;

(e) the county attorney;
(f) the youth who is the subject of the report or record, after he has been emancipated or reaches the age of majority.

(2) All or any part of records information secured from records listed in subsection (1) of this section, when presented to and used by the court in a proceeding under this act, shall also be made available to the counsel for the parties to the proceedings.

(3) All other court records, including docket, petitions, motions and other papers filed in a case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection by those persons and agencies listed in subsection (1) of this section, and the parties to the proceedings and their counsel.

(4) All information obtained in discharge of an official duty by any officer or other employee of the youth court shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this act to receive such information, unless otherwise ordered by the judge.

10-1232. Disposition of records. (1) All court findings, orders, judgments and the legal and social files and records of the court, probation services and law enforcement agencies pertaining to a youth coming under this act shall be physically sealed when the youth reaches the age of eighteen (18) years.

(2) In those cases in which jurisdiction of the court or any agency is extended beyond the youth's eighteenth birthday the above records and files shall be physically sealed upon termination of the extended jurisdiction.

(3) Youth court records, probation officer's records, and all other reports of social and clinical studies shall not be opened to inspection except by consent of the court or the youth, upon petition to the youth court.

(4) Upon the physical sealing of the records pertaining to a youth pursuant to this section any agency or department that has in its possession copies of the records so sealed shall also seal or destroy such copies of records. Anyone violating the provisions of this subsection shall be subject to contempt of court.

(5) Nothing herein contained shall prohibit the destruction of such records with the consent of the youth court judge or county attorney after ten (10) years from the date of sealing. The records of youths who were twenty-eight (28) years old or older on July 1, 1974, may be destroyed with the consent of the youth court judge or county attorney.

(6) This section shall not apply to youth traffic records.

10-1233. Youth court judge. (1) Each judicial district in the state shall have at least one (1) judge of the youth court. His duties shall be:

(a) to appoint and supervise qualified personnel to staff the youth division probation departments within the

judicial district;

(b) to conduct hearings on youth court proceedings under this act;

(c) to perform any other functions consistent with the legislative purpose of this act.

(2) In each multi-judge judicial district the judges shall, by court rule, designate one of their number to act as youth court judge in each county in the judicial district for a fixed period of time. Service as youth court judge may be rotated among the different judges of the judicial district and among the individual counties within the judicial district for given periods of time. Continuity of service of a given judge as youth court judge and continuity in the operation and policies of the youth court in the county having the largest population in the judicial district shall be the principal consideration of the rule.

If the judges in any multi-judge judicial district do not establish such court rule within sixty (60) days of the enactment of the Montana Youth Court Act, the Montana supreme court shall establish an appropriate rule for such judicial district.

10-1234. Probation officers -- powers -- duties -- qualifications. (1) The youth division judge of each judicial district shall appoint such necessary probation officers as are required to carry out the purpose and intent of this act. He shall appoint such part-time probation officers as shall be required. The qualifications for part-time probation officers shall approximate those required for probation officers in so far as possible. A chief probation officer shall be appointed by the judge to supervise the youth division offices in the judicial district. The judge shall also insure that the youth division offices are staffed with necessary office personnel and that the offices are properly equipped to effectively carry out the purpose and intent of this act. No person while serving as a law enforcement officer shall be appointed or perform the duties of a full-time or part-time probation officer.

(2) Any person appointed as a chief probation officer must have the following qualifications:

(a) a master's degree in the behavioral sciences or;

(b) a bachelor's degree from an accredited college or university in the behavioral sciences, and at least one (1) year's experience in work of a nature related to the duties of a probation officer as set forth in subsection (4) of this section; or

(c) a bachelor's degree in any field and at least three (3) years' experience in work related to the duties of a probation officer as set forth in subsection (4) of this section.

(d) The judge may appoint any reputable person as a probation officer who has had experience in work of a nature related to the duties of a chief probation officer; provided, preference shall be given to persons with the qualifications set forth in subsection (2) above.

(4) A probation officer shall:

- (a) perform the duties set out in section 10-1210;
- (b) make predisposition studies and submit reports and recommendations to the court;
- (c) supervise, assist and counsel youth placed on probation or under his supervision;
- (d) perform any other functions designated by the court.

(5) A probation officer shall have no power to make arrests or to perform any other law enforcement functions in carrying out his duties except that a probation officer may take into custody any youth who violates either his probation or a lawful order of the court.

(6) A chief probation officer shall receive for his services a sum specified by the court; however, the judge may employ him on a yearly salary, not to be less than twelve thousand five hundred dollars (\$12,500) nor more than sixteen thousand dollars (\$16,000) depending on the formal training and experience of each respective officer. The salary of such officer shall be apportioned among and paid by each of the counties in which such officer is appointed to act, in proportion to the assessed valuation of such counties for the same year, except where such officer is appointed for one (1) county whereby such county shall pay the entire salary.

The judge having jurisdiction of juvenile matters may also appoint such additional persons giving preference to persons having the qualifications suggested for appointment as the chief probation officer to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge, provided that such salaries shall not exceed ninety percent (90%) of the salary of the chief probation officer.

For all necessary travel incident to his official duties in connection with the investigation, supervision, and transportation of youth, the probation officer shall, in addition to his office salary, be reimbursed for actual expenses incurred.

10-1235. Order of adjudication--non-criminal. No commitment of any youth to any institution under this act shall be deemed commitment to a penal institution. No adjudication upon the status of any youth in the jurisdiction of the court shall operate to impose any of the civil disability imposed on a person by reason of conviction of a criminal offense, nor shall such adjudication be deemed a criminal conviction, nor shall any youth be charged with or convicted of any crime in any court except as provided in this act. Neither the disposition of a youth under this act, nor evidence given in youth court proceedings under this act, shall be admissible in evidence except as otherwise provided in this act.

10-1236. Foster homes. (1) The youth court may establish procedures for finding, maintaining and administering temporary and permanent licensed foster homes or other homes approved by the court for youth within the provisions of this act.

(2) The licensed foster homes established under this section shall be funded at a rate consistent with other foster homes established for other purposes under law.

(3) All foster homes licensed by the social and rehabilitation services, established shall be financed by the department of social and rehabilitation services as set forth in section 71-210 (b), R.C.M. 1947.

10-1237. Youth detention home. In all counties the county commissioners may provide by purchase, lease, or otherwise, a place to be known as the youth detention home, which shall not be used for the confinement of adult persons charged with criminal offenses, where delinquent youths and youth in need of supervision may be detained until final disposition, which place shall be maintained by the county as in other like cases. The judge having jurisdiction may appoint such personnel as required, who shall have charge of said home and of the youths detained therein.

Such home shall be furnished in a comfortable manner, as nearly as may be as a family home. The compensation of such personnel shall be fixed by the court, and such compensation and the maintaining of such home shall be paid out of the county treasury.

10-1238. Support of youth committed to a custodial agency. When a youth under this act is committed by the court to custody other than that of its parents, and no provision is otherwise made by law for the support of such youth, compensation for the care of such youth, when approved by order of the court, shall be a charge upon the county, or the appropriate division thereof. But the court may, after giving the parent a reasonable opportunity to be heard, adjudge and order that such parent shall pay in such manner as the court may direct, such sum as will cover, in whole or in part, the support of such youth, provided, however that such sum shall not exceed the cost of reasonable care of a normal youth at home, and if such parent shall willfully fail or refuse to pay such sum, he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence, or said cost may be collected in a civil action against the parent or parents.

10-1239. County commissioners authorized to provide funds. The county commissioners of all counties are hereby authorized, empowered, and required to provide the necessary funds and to make all needful appropriations to carry out the provisions of this act.

10-1240. Youth court committee. In every county of the state the judge having jurisdiction may appoint a committee, willing to act without compensation, composed of not less than three (3) nor more than seven (7) reputable citizens, including youth representatives, which committee shall be designated as a youth court committee; this committee shall be subject to the call of the judge to meet and confer with him on all matters pertaining to the youth department of the

court, including the appointment of probation officers, and shall act as a supervisory committee of youth detention homes.

10-1241. Publicity. No publicity shall be given to the identity of an arrested youth or to any matter or proceeding in the youth court involving a youth proceeded against as, or found to be a delinquent youth or youth in need of supervision except as provided in section 10-1220 (5), R.C.M. 1947.

10-1242. Establishment of district youth guidance home program. The legislative assembly, in recognition of the wide and varied needs of delinquent youths and youths in need of supervision of this state and of the desirability of meeting these needs on a community level to the fullest extent possible, and in order to reduce the need for custodial care in existing state institutions, establishes by this act a district youth guidance home program to provide facilities and services for the rehabilitation of delinquent youths and youths in need of supervision and establishes a program to provide such facilities and services through local nonprofit corporations and the department of institutions.

10-1243. Definitions. For purposes of this act:

(a) Delinquent youth. A youth as defined in section 10-1203 (12).

(b) A youth in need of supervision. A youth as defined in section 10-1203 (13).

(c) District youth guidance home. A district youth guidance home is a family-oriented residence established in a judicial district of the state of Montana as an alternative to existing state institutions, the function of which is to provide a home and guidance through adult supervision for delinquent youths and youths in need of supervision.

10-1244. Nonprofit corporations to establish homes authorized--power to receive facilities and funds. Nonprofit corporations or associations in any judicial district may be formed or organized for the purpose of establishing under this act district youth guidance homes and to receive from the department of institutions and other governmental units such services, facilities and funds as the department or other governmental units may be authorized to provide by law.

10-1245. Governmental aid to nonprofit organizations.

(1) The department of institutions shall be authorized to contract with nonprofit corporations or associations, to provide facilities and services for delinquent youths and youths in need of supervision in district youth guidance homes, and is authorized to expend such moneys as shall be appropriated or available therefor.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state

institutions of higher learning are hereby authorized, at their own expense, to provide funds, materials, facilities and services for district youth guidance homes.

10-1246. Authority of youth court judge to commit delinquent youths and youths in need of supervision. A youth court judge is hereby authorized in his discretion to place a delinquent youth or a youth in need of supervision to said district youth guidance home for any period of time up to the child's twenty-first birthday subject to the approval of its sponsoring nonprofit corporation or association.

10-1247. Petition by person under twenty-one (21) to be placed in district youth guidance home. Any person under the age of eighteen (18) years, or any person between the ages of eighteen (18) and twenty-one (21) years, who is still within the jurisdiction of the youth court may petition the youth court of a district in which a district youth guidance home has been established to be placed in a district youth guidance home for any period of time up to said person's twenty-first birthday.

10-1248. Continuing jurisdiction of youth court over youths. The youth court placing a delinquent youth or a youth in need of supervision to a district youth guidance home shall retain continuing jurisdiction over said youth until said youth becomes twenty-one (21) years of age or is otherwise discharged by order of the court.

10-1249. Per diem charge to financially able parents. A youth court judge placing a delinquent youth or a youth in need of supervision in a district youth guidance home may, if the parent or parents of the youth are financially able, without undue hardship, require the parents or parent to pay to the district youth guidance home a per diem charge not to exceed the per diem charge established by the department of institutions for each youth placed in the Montana children's center.

10-1250. Placement of youths by department of institutions. The department of institutions is hereby authorized as part of its aftercare program to place a delinquent youth or a youth in need of supervision in a district youth guidance home subject to the approval of its sponsoring nonprofit corporation or association.

10-1251. Rules and regulations. The director of the department of institutions shall have power to adopt reasonable rules, regulations and standards to carry out the administration and purposes of this act.

10-1252. Federal assistance. The department of institutions is hereby authorized to make application for and to receive federal-aid money or other assistance which might now or hereafter become available for programs in the nature of the one created by this act.

CHAPTER 13 -- ABUSED, NEGLECTED AND DEPENDENT
CHILDREN OR YOUTH

10-1300. Declaration of policy. It is hereby declared to be the policy of the state of Montana:

(1) to insure that all youth are afforded an adequate physical and emotional environment to promote normal development;

(2) to compel in proper cases the parent or guardian of a youth to perform the moral and legal duty owed to the youth;

(3) to achieve these purposes in a family environment whenever possible; and

(4) to preserve the unity and welfare of the family whenever possible.

10-1301. Definitions. (1) "Child" or "youth," for purposes of this act, means any person under eighteen (18) years of age.

(2) "Abuse" or "neglect" means:

(a) The commission or omission of any act or acts which materially affect the normal physical or emotional development of a youth, any excessive physical injury, sexual assault or failure to thrive, taking into account the age and medical history of the youth, shall be presumptive of "material affect" and non-accidental; or

(b) The commission or omission of any act or acts by any person in the status of parent, guardian or custodian who thereby and by reason of physical or mental incapacity or other cause, refuses, or with state and private aid and assistance is unable to discharge the duties and responsibilities for proper and necessary subsistence, education, medical or any other care necessary for his physical, moral and emotional well-being.

(3) "Dependent youth" means a youth who is abandoned, dependent upon the public for support, and who is destitute or is without parents or guardian or under the care and supervision of a suitable adult or who has no proper guidance to provide for his necessary physical, moral and emotional well-being. A child may be considered dependent and legal custody transferred to a licensed agency if the parent or parents voluntarily relinquish custody of said child.

(4) "Youth in need of care" means a youth who is dependent or is suffering from abuse or neglect within the meaning of this act.

10-1302. Jurisdiction and venue. (1) In all matters arising under this act, the youth court shall have concurrent jurisdiction with the district courts over all youths who are within the state of Montana for any purpose, or any youth or other person subject to this act who under a temporary or permanent order of the court has voluntarily or involuntarily removed himself from the state or the jurisdiction of the court, or any person who is alleged to have abused, neglected or caused the dependency of a youth

who is in the state of Montana for any purpose.

(2) Venue shall be determined pursuant to section 10-1207, R.C.M. 1947.

10-1303. Declaration of policy. It is the policy of this state to provide for the protection of children whose health and welfare are adversely affected and further threatened by the conduct of those responsible for their care and protection. It is intended that the mandatory reporting of such cases by professional people and other community members to the appropriate authority will cause the protective services of the state to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life wherever possible.

10-1304. Reports. Any physician who examines, attends or treats a person under the age of majority, or any nurse, teacher, social worker, attorney or law enforcement officer or any other person who has reason to believe that a child has had serious injury or injuries inflicted upon him or her as a result of abuse or neglect, or has been willfully neglected, shall report the matter promptly to the department of social and rehabilitation services, its local affiliate, and the county attorney of the county where the child resides. This report shall contain the names and addresses of the child and his or her parents or other persons responsible for his or her care; to the extent known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible therefor; and the facts which led the person reporting to believe that the child has suffered injury or injuries, or willful neglect, within the meaning of this act.

10-1305. Action on reporting. If from said report it shall appear that the child suffered such injury or injuries or willful neglect, the social worker shall conduct a thorough investigation into the home of the child involved and into the circumstances surrounding the injury of the child and into all other matters which, in the discretion of the social worker, shall be relevant and material to the investigation. If from the investigation it shall appear that the child suffered such injury or injuries or willful neglect, the department shall provide protective services to protect the child and preserve the family. The department will advise the county attorney of its investigation.

The investigating social worker shall also furnish a written report to the department of social and rehabilitation services who shall have the responsibility of maintaining a central registry on child abuse or willful neglect cases.

10-1306. Immunity from liability. Anyone participating in the making of a report pursuant to the provisions of this

act or participating in [a] judicial proceedings resulting therefrom shall be presumed to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose.

10-1307. Admissibility of evidence. In any proceeding resulting from a report made pursuant to the provisions of this act or in any proceeding where such a report or any contents thereof are sought to be introduced into evidence, such report or contents thereof or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

10-1308. Confidentiality. The case records of the department of social and rehabilitation services, its local affiliate, the county welfare department, the county attorney and the court concerning actions taken under this act shall be kept confidential unless the court determines that they should be released.

10-1309. Emergency protective service. Any social worker of the department of social and rehabilitation services, the county welfare department, peace officer or county attorney who has reason to believe any youth is in immediate or apparent danger of violence or serious injury shall have the authority to immediately remove the youth and place him in a protective facility. The department may make a request for further assistance from the law enforcement agency or take such legal action as may be appropriate.

A petition shall be filed within forty-eight (48) hours of emergency placement of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents.

The department of social and rehabilitation services and the county welfare department shall comply with the judicial procedures set forth in section 10-1305, R.C.M. 1947.

The department of social and rehabilitation services and the county welfare department shall make such necessary arrangements for the youth's well-being as are required prior to the court hearing.

10-1310. Petitions. (1) The county attorney shall be responsible for filing all petitions alleging abuse, neglect and dependency. He may require all state, county and municipal agencies, including law enforcement agencies, to conduct such investigations and furnish such reports as may be necessary.

(2) Such petitions shall be given preference by the court in setting hearing dates.

(3) A petition alleging abuse, neglect or dependency, is a civil action brought in the name of the state of

Montana. The rules of civil procedure shall apply except as herein modified. Proceedings under a petition shall not be a bar to criminal prosecution.

(4) The parents or parent, guardian or other person or agency having legal custody of the youth named in the petition, if residing in the state, shall be served personally with a copy of the petition and summons at least five (5) days prior to the date set for hearing; if such person or agency resides out of state or is not found within the state, the rules of civil procedure relating to service of process in such cases shall apply.

(5) In the event service cannot be made upon the parents or parent, guardian or other person or agency having legal custody, the court shall appoint an attorney to represent the unavailable party where in the opinion of the court the interests of justice require.

(6) Where a parent of the child is a minor notice shall be given to the minor parent's guardian and if there is no guardian the court shall appoint one.

(7) Any person interested in any cause under this act shall have the right to appear.

(8) Except where the proceeding is instituted or commenced by a representative of social and rehabilitation services, a citation shall be issued and served upon a representative of social and rehabilitation services prior to the court hearing.

(9) The petition shall:

(a) state the nature of the alleged abuse, neglect or dependency;

(b) state the full name, age and address of the youth, his parents or guardian or person having legal custody of the youth;

(c) state the names, addresses and relationship to the youth and all persons who are necessary parties to the action.

(10) The petition may ask for the following relief:

(a) temporary investigative authority and protective services;

(b) temporary legal custody;

(c) limited legal custody;

(d) permanent legal custody, including the right to consent to adoption;

(e) appointment of guardian ad litem;

(f) any combination of the above or such other relief as may be required for the best interest of the youth.

(11) The petition may be modified for different relief at any time within the discretion of the court.

(12) The court may at any time on its own motion, or the motion of any party, appoint a guardian ad litem for the youth, or counsel for any indigent party.

(13) This section shall not apply to a petition for temporary investigative authority and protective services.

10-1311. Petition and order for temporary investigative authority and protective services. (1) In cases where it appears that a youth is abused or neglected or is in danger of being abused or neglected the county

attorney may file a petition for temporary investigative authority and protective services.

(2) A petition for temporary investigative authority and protective services shall state the specific authority requested and the facts establishing probable cause that a youth is abused or neglected or is in danger of being abused or neglected.

(3) The petition for temporary investigative authority and protective services shall be supported by an affidavit signed by the county attorney or a social and rehabilitation services report stating in detail the facts upon which the request is based.

(4) Upon the filing of a petition for temporary investigative authority and protective services, the court may issue an order:

(a) granting such relief as may be required for the immediate protection of the youth.

(b) The order shall be served by a peace officer or a representative of the state social and rehabilitation services on the person or persons named therein.

(c) The order shall require the person served to immediately comply with the terms thereof or upon failure to so comply to appear before the court issuing the order on the date specified and show cause why he has not complied with the order. Except as otherwise provided herein, the rules of civil procedure shall apply.

(d) Upon a failure to comply or show cause the court may hold the person in contempt or place temporary legal custody of the youth with the state social and rehabilitation services until further order.

(e) The court may grant the following kinds of relief:

(i) right of entry by peace officer or state social and rehabilitation services worker;

(ii) medical and psychological evaluation of youth or parents, guardians, or person having legal custody;

(iii) require the youth, parents, guardians or person having legal custody to receive counseling services;

(iv) place the youth in temporary medical facility or facility for protection of the youth;

(v) require the parents, guardian or other person having custody to furnish such services as the court may designate;

(vi) such other temporary disposition as may be required in the best interest of the youth.

10-1312. Hearing. (1) In a hearing on a petition under section 10-1310, R.C.M. 1947, the court shall determine whether said youth is an abused, neglected or dependent child, and ascertain, as far as possible, the cause thereof.

(2) The court shall hear evidence regarding the residence of the child, whereabouts of the parents, guardian or nearest adult relative, the financial ability of any such parents or parent, to pay the cost of care of the child, whether or how long the child has been maintained in whole or in part by public or private charity, and may take into consideration the report of the county welfare department

filed with the clerk of the court, pursuant to section 10-1313, R.C.M. 1947.

(3) In all civil and criminal proceedings relating to abuse, neglect or dependency the doctor-patient privilege and husband-wife privilege shall not apply to the extent any testimony relates to such matters.

10-1313. Investigation of parents' financial ability. Whenever any petition is filed with the clerk of the district court alleging abuse, neglect or dependency, the clerk of such court shall immediately deliver to the county welfare department of the county in which the petition is filed, a copy of the petition with a notation thereon giving the day and time fixed by the court for hearing the petition. Upon receipt of such copy of petition the county welfare department shall make an investigation for the purpose of ascertaining whether the parent or parents, if any, of the child live within the county and the financial ability of such parent or parents, if any, to pay the cost of supporting the child in a foster home, and shall file with the clerk of such court, before the time fixed for the hearing, a written report of such investigation. If, upon hearing, the court finds and determines that the child has parents, or a parent, who is financially able to pay a part or the whole of such cost, and the child is ordered placed in a foster home, the court shall make an order requiring such parents, or parent, to pay such amount as the court may deem proper. A copy of the written report shall be provided to all parties to the proceeding before the time filed for hearing.

If the child is placed in a foster home, the state department of social and rehabilitation services shall pay one-half (1/2) of the cost thereof, and the county in which such child has residence shall pay the other one-half (1/2) thereof. Any amount collected from a parent or parents, when a child is placed in a foster home, shall be transmitted to the state department of social and rehabilitation services. The department shall then pay to the county one-half (1/2) of the amount so collected.

10-1314. Judgment. (1) If a youth is found to be abused, neglected, or dependent, the court may enter its judgment making any of the following dispositions to protect the welfare of the youth:

(a) permit the youth to remain with his parents or guardian subject to those conditions and limitations the court may prescribe;

(b) transfer legal custody to any of the following:

(i) department of social and rehabilitation services;

(ii) a child-placing agency willing and able to assume responsibility for the education, care and maintenance of the youth and which is licensed or otherwise authorized by law to receive and provide care of the youth; or

(iii) a relative or other individual who, after study by a social service agency designated by the court, is found by the court to be qualified to receive and care for the youth;

(c) order any party to the action to do what is necessary to give effect to the final disposition, including undertaking medical and psychological evaluations, treatment and counseling;

(d) order such further care and treatment as the court may deem in the best interest of the youth.

(2) Whenever the court vests legal custody in any agency, institution or department it shall transmit with the dispositional judgment copies of any medical report, and such other clinical, predisposition or other reports and information as may be pertinent to the care and treatment of the youth.

(3) Any youth found to be abused, neglected or dependent may be committed to the Montana children's center, and if the center is unable to receive the child, or if, for any other reason, it appears to be in the best interest of the child, the court may make such other disposition of the child as the court deems best for his social and physical welfare. The form of commitment shall be as follows:

ORDER OF COMMITMENT

State of Montana, County of, ss:

In the District Court for the Judicial District.

On the day of, 19..., ..., minor of this county, was charged on the petition of, of county attorney of county, with being an abused or neglected or dependent child. Upon due proof I find that it is for the best interests of the child that he be taken from the custody of his parents, guardian or other person having custody of him.

The names, addresses and occupations of the parents are:

Name

Address

Occupation

.....

.....

The child's guardian is

The child is in the custody of

It is ordered that be committed to until discharged as provided by law.

Witness my hand this day of A.D. 19....

..... (Judge)

(4) Transfer of legal custody of a child shall include guardianship of any assets or estate of the child, unless otherwise specified by the court.

(5) Except in cases in which the court permanently terminates all parental rights or rights of the guardian of the youth, the court shall retain jurisdiction over the case and may subsequently modify any disposition ordered pursuant to this section.

10-1315. Responsibility of providing protective services. The department of social and rehabilitation services and the county welfare department shall have the primary responsibility to provide the protective services authorized by this act and shall have the authority pursuant to this act to take temporary, limited or permanent custody of a child when ordered to do so by the court, including the right to give consent to adoption.

10-1316. Foster or boarding home operator defined. Any person owning or operating a home or institution into which home or institution he takes any child or children for the purpose of caring for them and maintaining them and for which care and maintenance he receives money or other consideration of value and which child is neither his son, daughter, ward, nor related to him by blood, shall be deemed to be an "operator" of a "foster home or boarding home" within the meaning of this act, except that this act shall not apply when any person accepts such care and custody of such child on a temporary basis and simply as a temporary accommodation for the parent or parents, guardian or relative of such child. The word "person" where used in this act, shall include any individual, partnership, voluntary association or corporation.

10-1317. License required. No person shall maintain or operate a foster or boarding home for any child or children within the meaning of this act without first securing a license in writing from the state department of social and rehabilitation services. No fee shall be charged for such license.

10-1318. Issuance of license--authority of issuing agency. The state department of social and rehabilitation services is hereby authorized to issue licenses to persons conducting boarding or foster homes and to prescribe the conditions upon which such licenses shall be issued, and making such rules and regulations as it may deem advisable for the operation and regulation of foster and boarding homes for minor children consistent with the welfare of such children. Such licensing agency shall have the power and authority to inspect all such licensed foster and boarding homes through its duly authorized representatives and to cancel licenses theretofore issued for the failure to observe such rules and regulations. The person operating such homes shall give to such representative such information as may be required and afford them every reasonable facility for observing the operation of such homes.

10-1319. Penalty. Any person who maintains or conducts a foster or boarding home, or assists in conducting or maintaining such home without having first obtained a license in writing as hereto provided, shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed one hundred dollars (\$100.00).

10-1320. Payment for board, clothing, personal needs, and room of dependent and neglected children--reimbursement by county. Whenever agreements are entered into by the state department of social and rehabilitation services for placing dependent and neglected children in approved family foster homes or licensed private institutions, it shall be the duty of the state department to pay by its check or draft, each month, from any funds appropriated for that purpose, the entire amount agreed upon for board, clothing, personal

needs, and room of such children.

On or before the twentieth of each month the state department shall present a claim to the county of residence of such children for one-half the payments so made during the month. The county must make reimbursement to the state department with[in] twenty days after such claim is presented.

10-1321. Recovery from parents--division between state and county. In the event any recovery is made from the parent or parents of children for whom board, clothing, personal needs and room has been paid by the state and county any amount so recovered shall be divided equally between the state department and the county of residence of such child or children.

10-1322. Punishment of parents and other adults.

(1) If the evidence indicates violation of the criminal code, it shall be the responsibility of the county attorney to file appropriate charges against the alleged offender.

(2) District court shall have original jurisdiction under this section.

Critique of the Youth Court Act

(excerpt from thesis by John H. Wilkinson,
University of Denver, May 1976)

PARAMETERS OF THE STUDY
AND THE MONTANA YOUTH COURT ACT

It is important from the outset for the reader to understand what facets of detention and shelter care this study will address, and what parts it will not. Central to this are three definitions of youth the act covers in Sections 10-1203 and 1301.

- 1) "Delinquent youth: means a youth:
 - a) who has committed an offense which, if committed by an adult would constitute a criminal offense;
 - b) who, after having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation."
- 2) "Youth in need of supervision: 'means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense...' "
- 3) "Youth in need of care means a youth who is dependent or is suffering from abuse or neglect..."

From the outset, the advisory group decided that "youth in need of care" would be excluded from the study for two reasons: (1) youth in this classification largely fall under a different system of treatment than do delinquent youth and youth in need of supervision, and likewise;

2) their primary entry point into the system is through social services rather than through the criminal justice system.

The context of this study is the criminal justice system and includes the principle actors in that system. Specifically, the actors are law enforcement, probation, aftercare counselors and child welfare workers. Although child welfare workers are not strictly within the criminal justice system, their inclusion was considered essential since significant interfaces occur between social services and the criminal justice system in relation to shelter care decisions. In addition, child welfare workers are frequently the exclusive treatment agents of youth in need of supervision since the statutory lines are not clearly demarcated as to which system should handle what type of child.

Definitions of Detention and Shelter Care

What is meant by detention and shelter care? In Montana, detention usually refers to jail or a holdover facility and shelter care means either foster care, an Attention Home, or some other form of shelter care facility. Although the law includes all of the aforementioned alternatives as places of detention, a more precise definition seemed necessary. A review of the literature netted therefore the following definitions, as well as some basic parameters for their use.

Detention: Temporary care of children in physically restricted facilities pending court disposition¹ or transfer to another jurisdiction or agency. There are only two (2) reasons why detention should be used;²

1. For the child who is a high "run risk" and who would not likely appear in court for a hearing. (This includes youngsters who are being held for another jurisdiction.)
2. For the child who is considered a serious danger to the community or to himself.

The major form of detention in most states is the juvenile detention center.

Jail: The literature discusses jail separately from detention in that the former's dynamics differ substantively from the latter and jail is not expressly designed for minors. Jail or police lock-up is used as a place of³ confinement for adults as well as for juveniles.

However, for purposes of our study, jail will be included under the definition of detention.

Shelter Care: Is the temporary care of children in physically unrestricting facilities pending return to their own homes or placement for longer-term care. While its main use is for dependent and neglected children, it may also be properly used for children apprehended for delinquent behavior who need temporary care but not secure custody. Detention care should never be used for dependent and neglected children.⁴

Shelter care may be further subdivided into various forms:

1. Attention Home: Short-term group home aimed at adolescent aged youth who would otherwise be detained in jail or be faced with an intolerable living situation.
2. Receiving Home: A licensed group facility for temporary care of children aged infancy

through seventeen.⁵ (It should be noted that most receiving homes' clientele falls between infancy and pre-adolescence.)

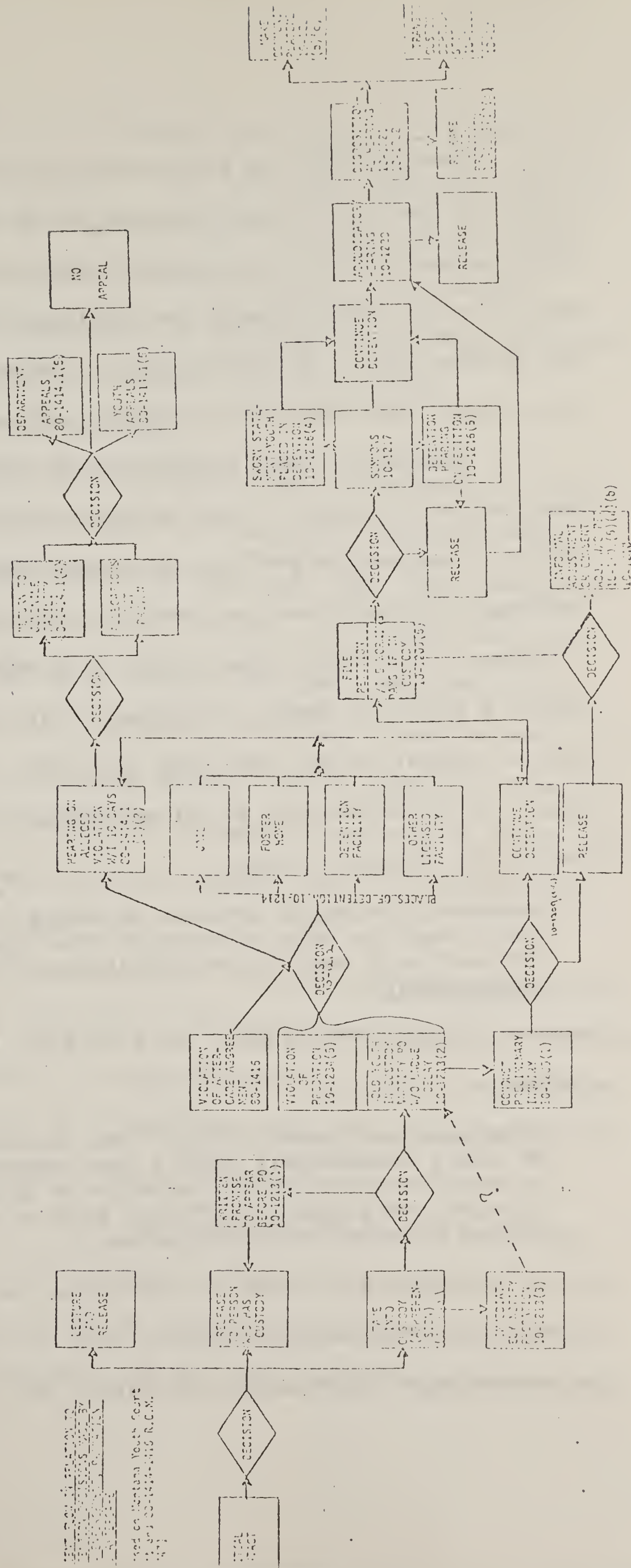
3. Emergency Foster Care⁶: Any foster home approved for use in emergency situations. Family has agreed to accept calls to take children any time of night or day. (In some states a special board rate is offered as an additional incentive.)
4. Home Detention: An alternative to incarceration wherein a youth is kept in his own home under close supervision by a paraprofessional youth worker.⁷

CLIENT FLOW AND DECISION MAKING

Since this study primarily concerns itself with decisions made by principle actors in the criminal justice system it seemed only logical to turn to the Montana Youth Court Act and its provisions for detention and shelter care. Table 2 is an attempt at outlining, based on the Montana Youth Court Act, the client flow in relation to detention decisions made by law enforcement, probation, and aftercare counselors. What is immediately apparent is that the number of alternatives available to the decision maker are numerous and that guidelines for choosing one alternative over the other are largely absent.

Another impression is that as a juvenile initially enters the system, the opportunities for exiting are numerous. But as he/she penetrates the system further, the number of alternatives decreases, until the only options left are to continue detention or release.

Table 2



One can see the inconsistency of definition by examining the four cells referred to as places of detention which range from jail to foster homes in terms of security. When this is compared with the earlier definition of detention and shelter care, the difficulty in determining the bases for making these decisions becomes apparent.

Similarly, when examining the earlier cells going from Initial Contact to the Decision to Detain, it is difficult to determine who can or cannot make the decisions. Probation officers may not take a youth into custody except in cases of probation violations, but when the decision to detain a child is made, it appears that either law enforcement or probation may make the decision. The crucial passages are in 10-1213(2) & (3) and their interpretation. 10-1213(2) states in part...

"Whenever the peace officer believes...that the youth must be held in custody then the peace officer must notify the probation officer without undue delay."

However, directly following this excerpt is 10-1213(3) that states:

"Whenever any peace officer has apprehended a youth he shall immediately notify the probation officer of such fact and shall, as soon as practicable, provide the probation officer with a written report of his reasons for apprehension."

If, in interpreting these two sections the youth court chooses to emphasize the second section, then it would largely preclude law enforcement from making detention decisions. However,

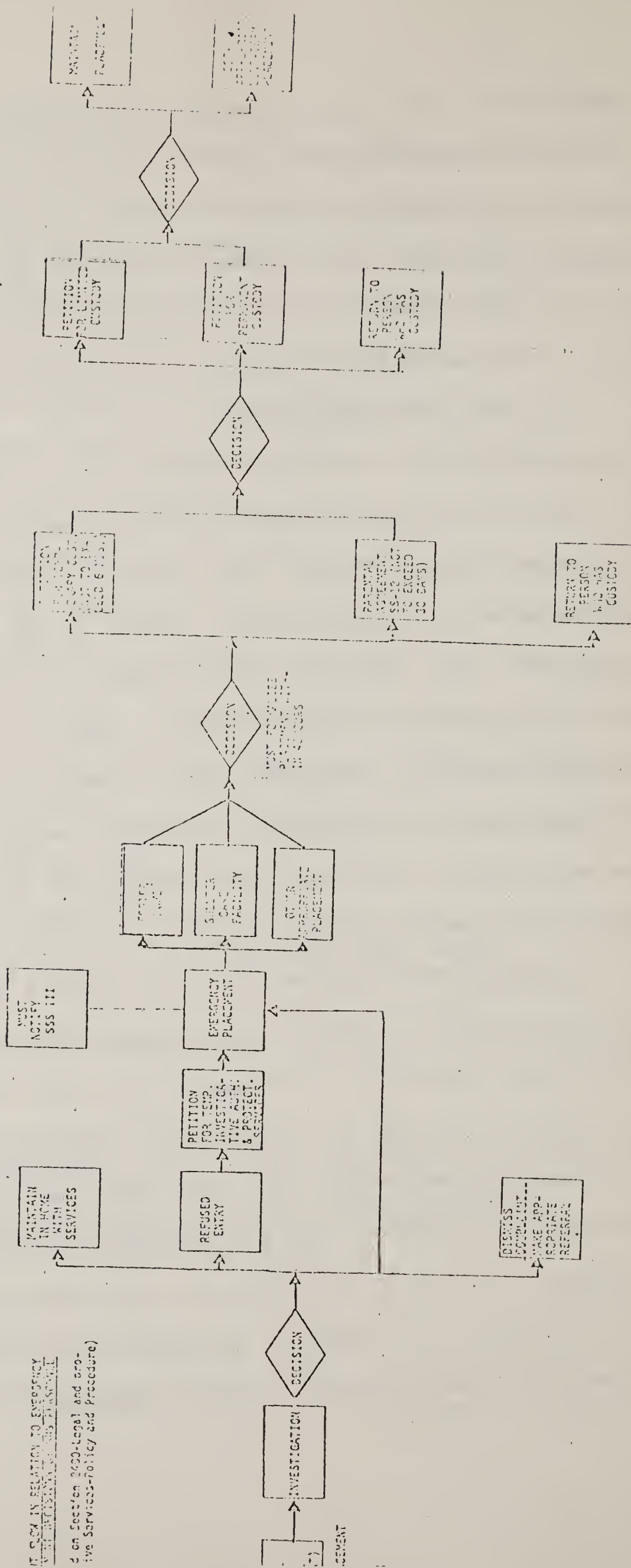
emphasis on the first passage would allow law enforcement to make those decisions. What confounds this are the four criteria offered in Section 10-1212 under which a youth may be detained prior to the hearing on the petition:

- (1) that his detention is required to protect the person or property of others or of the youth;
- (2) that he may abscond;
- (3) that he is without supervision or care by an adult; or,
- (4) that a court order for detention has been made.

If law enforcement makes the decision, then the practice is problematic in several ways. First, it is only the youth court that can decide to file a petition, and the officer is in no position to know ahead of time if that is the intent. Second, except in the case where a court order for detention has been made, a diagnostic assessment would have to be made. Law enforcement personnel are simply not in a position to make such assessments.

The final problem is in the area of review of detention decisions in relation to release from detention. Looking at the law literally, it appears that the first opportunity for judicial review of a detention decision would be within five working days after the youth was first confined. Section 10-1209(6) of the Act provides that if a petition charging a youth is not filed by that time, then the youth is to be released. What is not known, and what the study hopes to uncover in part, is how the juvenile justice system

(7)
 (8)
 9
 10
 11
 12



contends with the incompleteness and lack of specificity in these statutes in the areas of policy and practice.

Table 3 is a summary of the Client Flow in relation to Emergency Placement Decisions by Social and Rehabilitation Services personnel. What is important is that once a youth is referred then the system of emergency placement tends to become completely separate from the juvenile justice system. This is both an asset and a liability. It is an asset in the sense that the two systems should in principle be separated; and that youth in need of supervision should not be treated the same, as juvenile felons. However, the major liability, as discussed previously, is that many times probation and social services handle similar cases. Therefore, when the two systems of pre-dispositional care are so separated, the opportunities for these systems interfacing are limited. More importantly, the opportunities for diverting youth from the juvenile justice system, when appropriate, become severely limited.

MONTANA YOUTH COURT ACT: A CRITIQUE

The foregoing discussion of the Youth Court Act was intended to highlight formal and informal detention decision points. The following critique of the Act is meant to substantiate the view that many of its sections are problematic because they are either unclear and/or incomplete, and thus encourage the development of inconsistent and unvalidated decisional criteria and resultant practices in the detention and shelter care of youth.

This is by no means an inclusive discussion of the Act, but offers various focal points for debate and consideration of change. What follows, then, is a listing of sections of the Montana Youth Court Act that pertain to detention and shelter care. The particular section will be cited followed by a critique of that section. The serious reader should refer to the complete Act for in depth study.

Table 4

Relevant Sections of the MYCA Pertaining
to Detention and Shelter Care of Youth

Section	Subject
10-1203(5)	Foster Home defined
10-1203(17)	Detention Facility defined
10-1209(4)(c)	Conduct of Preliminary inquiry
10-1209(5)(a)	Informal adjustment not to involve probation or detention
10-1209(6)	Petition
10-1210(4)(d)	Informal adjustment transferring to Department of Institutions
10-1211	Taking into custody
10-1213	Release or delivery from custody
10-1214	Place of detention
10-1216(4)(5)	Summons: taking a youth into custody as a result thereof
10-1218	Basic Legal Rights
10-1219	Time limitations on petition hearings
10-1234(5)	Probation officers: no power to make arrests, but may take into custody
10-1236	Foster Homes
10-1237	Youth detention homes
10-1242	District Youth Guidance Home

Section 10-1203. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated:

(5) "Foster home" means a private residence approved by the court for placement of a youth.

Critique

It should be noted that Section 2500.1 of the Social Service manual under substitute care policy does not use the term foster home, but terms it foster family care and breaks it down as follows:

2500.1 Types of Foster Family Care

A. Boarding home:

Licensed private home which receives regular payment from the agency for care of the child.

B. Free home:

Licensed private home with no payment from the agency. Should be used only in exceptional circumstances when free care is the natural outgrowth of an established relationship.

C. Work or wage home:

Licensed private home with a definite arrangement that board and room are provided in return for a child's services or wages paid to the child in addition to board and room. Should be used only in exceptional situations.

D. Emergency home:

Licensed private home available for limited periods when homemaker service cannot be used.

E. Family group home:

Licensed private home which can be used for a specially composed group of children with special needs (e.g., adolescents).

F. Receiving home:

Licensed group facility for temporary care of children, ages infancy through seventeen.

Whether or not these two need to be congruent deserves consideration.

Section 10-1203. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated.

(17) "Detention facility" means a residential facility for the detention and rehabilitation of delinquent youth such as Pine Hills School in Miles City and Mountain View School in Helena.

Critique

Detention facility is essentially defined as Mountain View Girls School or Pine Hills School for Boys. The problem with this is that the term "detention" is used in a variety of other contexts within the Act, but due to the above definition, considerable confusion results when attempting to determine what the Act is intending.

Would strongly recommend that the Act be amended to include a definition of detention that encompasses temporary, predispositional care and further add a definition of shelter care. The National Council on Crime and Delinquency has developed two such definitions that are both concise

and widely accepted. (Refer to Section A of this Chapter for those definitions.)

Section 10-1209(4). Intake Procedure. The probation officer in the conduct of the preliminary inquiry shall:

(c) determine, if the youth is in detention or custody, whether such detention or custody should be continued.

Critique

Many states have included provisions for detention hearings within a specified period of time to determine the need for continued detention based on established criteria which usually includes: (1) whether or not the youth is a high run risk and (2) whether or not the youth presents a serious danger to himself or to the community.

However, the U.S. District Court, S.D. Florida, Miami Division in Moss Vs. Weaver found that pretrial detention of an accused juvenile without a showing of probable cause is unconstitutional. Therefore, even the above outlined criteria must be questioned in light of this decision requiring probable cause, especially if bail is not available to juveniles. In rural Montana, though, logistical considerations need to be taken into account in detention hearings of any kind.

Section 10-1209(5). Intake Procedure. The probation officer upon determining that further action is required may:

(a) provide counseling; refer the youth and his parents to another agency providing appropriate services; or take any other action or make any informal adjustment that does not involve probation or detention.

Critique

Again, because of definitional problems discussed earlier, it is not clear what is meant by detention as it relates to an informal adjustment.

Section 10-1209(6), Petition. A petition charging a youth held in custody or detention must be filed within five(5) working days from the date the youth was first confined or the petition shall be dismissed and the youth released unless good cause is shown to further detain such youth.

Critique

Under 10-1209(4)(c) the potential need for detention hearings was discussed. This section is a further illustration of the need to consider these hearings as a safeguard.

Under this section, a youth may be detained for 5 working days from the date the youth was first confined. In other words, a youth may be confined for a week without any legal recourse. This can be looked at from two perspectives:

- (1) It takes a good amount of time to prepare a petition and if the youth is being held in a rural community additional time is taken in travel. Thus, in many respects, a five day time limit is somewhat marginal.
- (2) If, however, a detention hearing with a determination of probable cause is held within a specified period of time, then the probation officer has more time to then conduct and prepare a complete social history and petition and at the same time safeguard the minor's rights.

Section 10-1210. Consent adjustment without petition.

(4) The following dispositions may be imposed by informal adjustment:

(d) Transfer of legal custody of the youth to the Department of Institutions, provided, however, that such commitment shall not authorize the Department of Institutions to place the youth in a detention facility as defined by this act and such commitment shall not exceed a period of six (6) months without a subsequent order of the court, after notice and hearing.

Critique

This is one section where "detention facility" is consistent with the definition given in the Act, but perhaps re-labeling it as "institutional placement" would clear up this confusion.

Section 10-1211. Taking into custody. (1) A youth may be taken into custody under the following circumstances:

Critique

The circumstances under which a youth may be taken into custody are not at issue. Rather, the issue seems to be what does custody mean? In other words, custody is not defined, leaving the door open to a undefinable degree of discretion.

Section 10-1212. Detention of youth. A youth taken into custody shall not be detained prior to the hearing on the petition except when: his detention or care is required to protect the person or property of others or of the youth; he may abscond or be removed from the jurisdiction of the court; he has no parent, guardian, or other person able to provide supervision and care for him and return him to

the court when required; or an order for his detention has been made by the court pursuant to this act.

Critique

Several points here. (1) Who is allowed to make the decision to detain a youth? It could either be law enforcement, probation, or the youth court judge. Law enforcement alone is not prepared to make the diagnostic assessment necessary to determine if the youth meets the above criteria, with the exception of an order for detention made by the court. (2) What happens when a youth is detained with no petition filed? Board of Crime Control Statistics indicate that many youth detained are never filed upon. (3) There are no procedures set forth for notification of parents or guardians.

Section 10-1213. Release or delivery from custody.

(2) Whenever the peace officer believes, on reasonable grounds, that the youth must be held in custody, then the peace officer must notify the probation officer without undue delay. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held in some place that has been approved by the youth court and completely separated from adult offenders.

(3) Whenever any peace officer has apprehended a youth, he shall immediately notify the probation officer of such fact and shall, as soon as practicable, provide the probation officer with a written report of his reasons for this apprehension.

Critique

What is the difference between custody and detention?

(Refer to discussion under Section 10-1211.) It appears there is no difference. What is meant by "undue delay"? What is the difference between a youth who has been apprehended and one who is held in custody? It is difficult to determine what the intent is of these sections in terms of what the probation officer is to be notified of "without undue delay" and "immediately". It would seem necessary to seek clarity on these issues.

Perhaps it would be more productive to quantify "undue delay". The Montana Standards and Goals Committee on Corrections recommended that law enforcement contact probation within twenty-four (24) hours after apprehending a youth.

Section 10-1214. Place of detention. (1) A youth alleged to be a delinquent youth or youth in need of supervision may be detained only in:

- (a) a licensed foster home or a home approved by the court;
- (b) a facility operated by a licensed child welfare agency;
- (c) a district youth guidance home or other youth facility or center which is under the direction or supervision of the court, other public authority or of a private agency approved by the court; or,
- (d) a detention facility;
- (e) any other suitable place or facility, designated or operated by the court. The youth may be detained in a jail or other facility for the detention of adults only if: the facilities are in subsection (c) or (d) is not available; the detention is in an area separate and removed from those of adults; it appears to the satisfaction of the court that public safety and protection reasonably require detention; the facilities specified in subsection (a) or (b) are not sufficient; and the court so orders.

Critique

The basic problem in this section is in not differentiating detention from shelter care. By specifying the criteria for placement in shelter care first and then detention, greater clarity may be achieved as to which set of alternatives is the most appropriate.

There is some question about whether or not a District Youth Guidance Home (DYGH) may be used as a place of detention. Section 10-1242 - the Function of the DYGH states in part that, "...in order to reduce the need for custodial care in existing state institutions, establishes by this Act a district youth guidance home program to provide facilities and services for the rehabilitation of delinquent youth and youth in need of supervision..."

This seems to indicate a post-dispositional treatment oriented program as opposed to detention which is defined by need as the "temporary care of children in physically restricted facilities pending court disposition or transfer to another jurisdiction or agency". Even if DYGHs were considered as a form of shelter care which is defined as the "temporary care of children in a physically unrestricting facility usually pending return to their own homes or placement for longer-term care" it would seem inappropriate due to the fact that the DYGH is a form of "longer-term care".

The only justification for using a DYGH as a place of detention would be if a youth were already committed to the DYGH and had committed an offense that would result in the

youth being placed in another setting and did not require physical restriction.

It would seem totally inappropriate to detain a youth at Mountain View Girls School or Pine Hills School for Boys since both are long-term training schools.

The procedures involved in this section need to be made more explicit. Also need to take a closer look at the appropriateness of jail and the length of time a juvenile may be detained in such a setting.

Section 10-1214. Place of detention (Cont.).

(2) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen (18) years is received at the facility. Such official shall bring the person before the court upon request or deliver him to a detention facility designated by the court.

(3) A youth alleged to be in need of care shall be placed only in the facilities stated in subsections (a) and (b) of subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of youths alleged to be delinquents or in need of supervision by virtue of violations of the law.

Critique

Due to definitional problems it would appear that the official in charge of a jail may, if he discovers an individual under eighteen (18) years may deliver the youth to Mountain View Girls School or Pine Hills School for Boys.

Once additional alternatives for predispositional care are developed, attention needs to be paid to the appro-

priateness of detaining youth in need of supervision as well as certain delinquents in jail at all.

Section 10-1216. Summons.

(4) If it appears from any sworn statement presented to the court that the youth needs to be placed in detention or care, the judge may endorse on the summons an order directing the officer serving the summons to at once take the youth into custody and to take him to the place of detention or care designated by the court, subject to the rights of the youth and parent or person having custody of the youth as set forth in the provisions of the Montana Youth Court Act relating to detention criteria and post-detention proceedings.

(5) If any youth is in custody or detained under any provision of this act pending an adjudication, the court, upon petition of the youth, his parents or guardian or his counsel shall, as soon as practicable, conduct a hearing in order to determine whether the circumstances of the case require such custody and the form the custody should take.

Critique

Section 5 is the closest to a detention hearing, but such a hearing may be held only if: (1) there is a pending adjudication and (2) upon petition of the youth. In many states this process is mandatory without regard to the potential disposition of the youth and whether or not the youth requests it. (Refer to critique of Section 10-1209(4)).

Section 10-1218. Basic legal rights. (1) When a youth alleged to be a delinquent youth or a youth in need of supervision is taken into custody, the following requirements must be met:

Critique

The requirements appear to be in conformance with the Gault decision.

Section 10-1234. Probation officers - powers
duties - qualifications.

(5) A probation officer shall have no power to make arrests or to perform any other law enforcement functions in carrying out his duties except that a probation officer may take into custody any youth who violates either his probation or a lawful order of the court.

Critique

This section properly delineates the separation of law enforcement functions from correctional/treatment functions.

Section 10-1236. Foster homes. (1) The youth court may establish procedures for finding, maintaining and administering temporary and permanent licensed foster homes or other homes approved by the court for youth within the provisions of this act.

(2) The licensed foster homes established under this section shall be funded at a rate consistent with other foster homes established for other purposes under law.

(3) All foster homes licensed by the social and rehabilitation services, established shall be financed by the department of social and rehabilitation services as set forth in section 71-210(b), R.C.M. 1947.

Critique

Refer to discussion of Section 1203(5). In addition, several exemplary programs have shown rather effectively that emergency foster homes can serve as an alternative to detention and act as a valuable resource for emergency shelter care. However, the rates are significantly higher as an inducement to take in youth on an emergency, crisis basis.

Section 10-1237. Youth detention home. In all counties the county commissioners may provide by purchase, lease, or otherwise, a place to be known as the youth detention home, which shall not be used for the confinement of adult persons charged with criminal offenses, where delinquent youths and youth in need of supervision may be detained until final disposition, which place shall be maintained by the county as in other like cases. The judge having jurisdiction may appoint such personnel as required, who shall have charge of said home and of the youths detained therein. Such home shall be furnished in a comfortable manner, as nearly as may be as a family home. The compensation of such personnel shall be fixed by the court, and such compensation and the maintaining of such home shall be paid out of the county treasury.

Critique

Youth detention homes, as defined in the Act, are more of a shelter care facility in that no language is included relating to physical restriction.

Youth detention homes, however, are normally, because of the word detention, considered physically secure facilities. But the larger question relates to who would control the home. The present section reads that "In all counties the county commissioners may provide...the youth detention home", but "the judge having jurisdiction may appoint such personnel as required, who shall have charge of said home..." and "the compensation of such personnel shall be fixed by the court, and such compensation shall be paid out of the county treasury".

NCCD recommends that unless your county apprehends 3,000 youth annually, you should think in terms of a regional

detention center, not a local facility. This is due to the fact that with a 10% detention rate (which is a goal rather than a reality in most communities), or 300 annual detainees, this is a minimum number in order to run an economically feasible youth detention home with a minimally acceptable program. There are few counties in the state that apprehend 3,000 juveniles during the course of a year.

In other words, some consideration should be given to amending this section to reflect regional detention strategies, or at least not encouraging local development of youth detention homes as defined. Separate language needs to be developed regarding shelter care facilities for delinquent youth and youth in need of supervision.

In either case, authority needs to be mandated to an appropriate body or agency to develop standards and procedures for these programs.

FOOTNOTES

1. Sherwood Norman, Standards and Guides for the Detention of Children and Youth (New York: National Council on Crime and Delinquency, 1961) p. 1.
2. John Howard Association, Survey Report Planning Study: Proposed Treatment Center and Detention Home - Berrien and Cass Counties, Michigan. (Chicago: John Howard Association, 1971) p. 10.
3. Margaret K. Rosenheim, "Detention Facilities and Temporary Shelters", in Donnel M. Pappenfort, Dee Morgan Kilpatrick, and Robin Roberts eds., Child Caring: Social Policy and the Institution (Chicago: Aldine, 1973) p. 255.
4. Norman, Standards and Guides, p. 2.
5. State of Montana, Department of Social and Rehabilitation Services, Social Services Manual. Section 2500 1 E.
6. "Fact Sheet for Homefinders on Emergency Foster Care Project", (Trenton, New Jersey: Bureau of Resource Development, Division of Youth and Family Services) p.1.
7. The project was demonstrated by the St. Louis Juvenile Detention Center among others.

SIMILAR ATTEMPTS IN MONTANA

The following descriptions demonstrate Montana's attempts to create the atmosphere encouraged by the proposed detention and shelter care system.

The Sixteenth Judicial District Youth Court centered in Miles City presently holds detention hearings on all youth held over 24-hours. These hearings are held before a District Judge on the same day or the next working day following the detention of a youth. Youth detained in counties outside of Custer County are transported to Miles City by the probation staff for their detention hearings. Legal counsel is appointed, if not already obtained, if there is a possibility that the youth may be committed to a state correctional facility in further court proceedings. At least one parent or guardian is present, except for out-of-district youth.

At the detention hearing, the Judge informs the youth, his/her parent(s), and counsel, if present, of the youth's constitutional rights. Testimony is given by the probation office staff, law enforcement personnel, and any witnesses in regard to the alleged offense and the youth's situation. Based on the written reports and testimony, the Judge makes the following determinations:

(1) probable cause to believe that the youth was involved in the alleged violation of the law or that the youth is wanted for a violation from another jurisdiction, and,

(2) whether or not the youth's detention should be continued based upon:

(a) whether or not the youth is a danger to the community or him/herself,

(b) whether or not the youth will abscond prior to the adjudicatory hearing or transfer to another jurisdiction, and

(c) other custodial placements available for the temporary care of the youth.

A petition is filed at the time of the detention hearing or shortly thereafter. The Judge prefers that the petition be filed prior, however, availability of county attorneys in rural counties occasionally hinders the expediency of this procedure. The maximum length of time ever necessary for the filing of a petition was 48-hours after the detention hearing. The Judge usually sets the time of the adjudicatory hearing during the detention hearing.

In the Fourth Judicial District centered in Missoula provides detention hearings before a juvenile probation officer for every youth detained. If the youth requests a detention hearing before a District Judge, such a hearing is provided. If the Judge makes a determination that the youth should continue to be held in detention, an authorization to hold is signed by the Judge. The public defender's office receives a jail roster every morning so that counsel may be provided without delay. Bail has been used in this jurisdiction a few times as an alternative to incarceration.

The Thirteenth Judicial District in Billings has been providing a 24-hour, seven days a week intake service since January of this year. Two intake staff were hired to provide crisis intervention, diversion from the Youth Court and its Probation Office, and appropriate, immediate referrals for necessary services. This intake service has resulted in less time being spent by the regular deputy probation officers with crisis cases or cases which only require council and release. Youth detained are receiving immediate attention of the intake staff and investigation information is more

readily available to the Youth Court and the Probation Office for immediate decision-making. The law enforcement agencies have greater accessibility to these 24-hour intake personnel for assistance and consultation. With both intake and law enforcement personnel available to youth and the community, many problems may have immediate solutions resulting in both short-term and long-term benefits.

APPENDIX 11

INTAKE RESPONSIBILITIES

Intake personnel should have the following responsibilities:

- 1) They should make a determination of whether the matter in question falls within the jurisdiction of that agency.
- 2) If the matter is not within the agency's jurisdiction, the case should be dismissed. In some cases, intake staff may assist the youth and his/her parents by making a voluntary referral to an appropriate service program.
- 3) If the matter appears to be within the agency's jurisdiction, intake staff should make an assessment of what action is appropriate, in the following order of priority:
 - a. dismissal of the complaint as too minor or otherwise so circumstanced as to warrant dismissal.
 - b. referral to a non-judicial agency for services.
 - c. recommendation of any of the other informal dispositions available to the court other than a petition, such as participation in a formally organized diversion program, a consent decree, an informal adjustment, or informal probation.
 - d. a decision that a formal court hearing is necessary in initiating the filing of the petition. Formal proceedings usually appear appropriate where:
 - accusations are in dispute, and, if borne out, court ordered disposition and treatment appear desirable.
 - detention or removal from the home is indicated.
 - the nature of gravity of the offense warrants official judicial or administrative attention.
 - the youth or the parents request a formal hearing on the matter.

- 4) Intake should screen youth for whom a petition is filed or is intended, in order to place as many in their parental homes or in shelter care as is consistent with the safety of the youth and the community.
- 5) If a youth must be held for another jurisdiction or is considered a danger to the community and a petition has been filed or is intended, intake is responsible to decide to place that youth in detention pending a detention hearing.
- 6) Preparation of a report for the court to be used at the detention or shelter care hearing, presenting the results of a preliminary investigation regarding the alleged offense and the reasons why detention of shelter care was deemed necessary.

APPENDIX 12

Program

Type: Diagnostic & Treatment
Population: Co-ed
Capacity:

Name: MENTAL HEALTH SERVICE CENTER
Salt Lake City, Utah

Staff Contact: Marcel Chappis, Director
The Second District Juvenile Court
3522 South 6th Street, West
Salt Lake City, Utah
801-262-2601

In 1973, the three judges of the Second District Juvenile Court approached the Department of Mental Health concerning the mental health services in the court. This program has grown from a quarter-time psychologist to a full staff of seven mental health representatives of three mental health centers, and three secretaries.

The professional staff includes 2 1/2 psychologists, 2 1/2 social workers, one psychology intern and one second year social work student. The program is located in the court building which also houses a detention unit for forty children, in-house representation from the Division of Family Services, the school district and vocational rehabilitation centers, and a large volunteer program. The mental health unit responds to referrals from all levels of the court. Among the services provided are:

- evaluation and diagnosis for court disposition
- crisis counseling for emergency behavior problems in the detention center
- in-service training for the detention staff
- recommendation reports for the intake worker and/or for the detention hearing
- testing and consultant services to the field probation offices

- screening for the state hospital and residential treatment center. As representatives of the Department of Mental Health, the staff screens the case and meets once a month with the hospital staff to discuss cases and further cooperation. When a child is to be released from the residential program, the court and hospital staff meet again with school personnel to make plans for the child. The court staff then is involved in follow up.

In order to keep constantly aware of needs for their services, the staff meets regularly with the court personnel, hospital staff, intake personnel, and field probation officers. Once a year the entire staff visits all placements used for juveniles in the state.

A number of additional programs have been developed by the staff. They include:

- The Drug School - a program for drug offenders and their families which emphasizes the need for a family response to the drug problem. The school consists of four sessions of two hours each. In one year the reported recidivism rate for drug offenders dropped approximately 50%.
- The Alcohol School - a program for alcohol offenders similar to the drug program. The recidivism rate for alcoholic offenders dropped approximately 50%.
- A pilot program offered to first offenders and their families. These families have the option of signing a contract to meet with one of three psychologists for six family counseling sessions. If the terms of the contract are fulfilled, the case is closed non-judicially.

APPENDIX 13

PROPOSED JOB DESCRIPTION -- STATE YOUTH COURT ADMINISTRATOR

Appointment - Salary

With the approval of the Montana Supreme Court and in conformity with any Court rules, the State Court Administrator may appoint a Youth Court Administrator. The salary should be \$18,000 annually or not to exceed 75% of the salary of a district court judge. The State Youth Court Administrator shall hold the position at the pleasure of the State Court Administrator and the Supreme Court.

Qualifications

(1) Education: The State Youth Court Administrator should have a law degree or a master's degree in administration, social services, education, or systems analysis.

(2) Experience: The State Youth Court Administrator should have had at least two years' experience in a state juvenile justice system, preferably in juvenile court administration.

(3) Desirable skills: The State Youth Court Administrator should have an understanding of statistics and information retrieval and skills in writing, public relations, and participatory management.

Any equivalent combination of the above may satisfy the requirements.

Duties

The duties of the State Youth Court Administrator should include:

(1) The development of programs for the in-service education and training of youth court personnel, including judges, probation officers, and district youth court administrators;

(2) The gathering and dissemination of information about:

(a) Services and administration of the Montana juvenile justice system;

(b) Resources available to the Montana juvenile justice system;

(c) Significant developments in juvenile law;

(3) The establishment and enforcement of qualifications for appointive youth court personnel;

(4) Fiscal management (including the management of any granted funds) for youth court programs and activities;

(5) The standardization of youth court procedures in conformity with the provisions of the Youth Court Act; and,

(6) Entering into cooperative agreements when necessary with state and local agencies and organizations concerned with youth activities and services, and generally maintaining coordination and close liaison among district youth courts and between the youth court system and state and local agencies and organizations concerned with youth programs and services.

(7) Such other duties as the State Court Administrator, with the concurrence of the Supreme Court, may assign.

APPENDIX 14

SHELTER FACILITY GRANT EXPLANATION

GRANTS:

Planning & Procurement	\$19,854
Undercapacity Operations	6,476
Cash Flow	11,737
5% Cost-of-Living	587
	<u>\$38,654</u>

PURCHASE OF SERVICES:

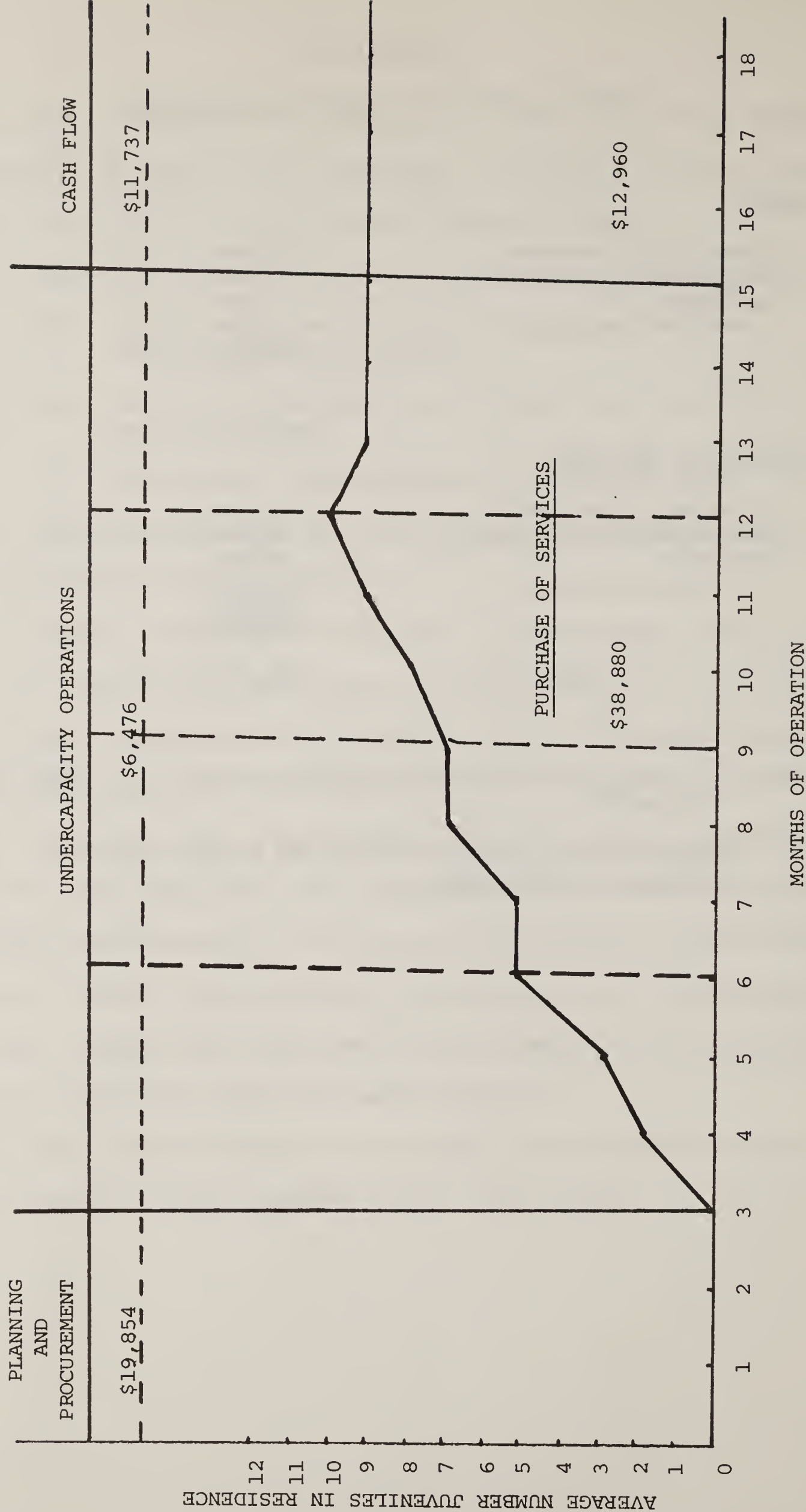
Planning & Procurement	\$ -0-
Undercapacity Operations	38,880
Cash Flow	12,960
5% Cost-of-Living	648
	<u>\$52,488</u>

18 Months Total	\$91,142
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Note: No youth in home will cause project to run out of funds after 9.88 months.

Must average 3.5 youth mos/mos. for first 10 months of project...to stay even.

PERFORMANCE CONTRACTING FOR SHELTER HOMES



* note - If no youths in home, project will run out of funds in 9.88 months.

Over the 18 months project must average 6 youths per month.

	AMOUNT	PLANNING & PROCUREMENT	1ST QUARTER	2nd QUARTER	3rd QUARTER	4th QUARTER	CASH FLOW
ADMINISTRATION/COUNS.	10,500	2,625	2,625	2,625	2,625	2,625	2,625
HOUSEPARENTS	12,000	1,000	3,000	3,000	3,000	3,000	3,000
BACK-UP/ASSIS.	2,400	200	600	600	600	600	600
15% FRINGE	3,375	544	844	844	844	844	844
TRAVEL (50/MOS)	600	100	150	150	150	150	150
KITCHEN EQUIPMENT & UTEN.	4,000	4,000	--	--	--	--	--
BEDROOM EQUIPMENT	3,240	3,240	--	--	--	--	--
LIVING ROOM FURNITURE	2,800	2,800	--	--	--	--	--
CLEANING SUPPLIES	500	500	--	--	--	--	--
LICENSING	1,500	1,500	--	--	--	--	--
OFFICE EQUIPMENT	1,500	1,500	--	--	--	--	--
RENT & UTILITIES	7,200	1,200	1,800	1,800	1,800	1,800	1,800
FOOD	7,200	150	950	1,300	1,800	1,800	1,800
TELEPHONE	144	24	36	36	36	36	36
MISC.	300	--	40	54	75	75	75
INSURANCE	300	50	75	75	75	75	75
REPLACEMENTS	144	--	19	26	36	36	36
REPAIRS	500	--	66	90	125	125	125
ACCOUNTANT	850	150	150	150	150	400	150
RECREATION	600	--	80	108	150	150	150
OFFICE	1,085	271	144	195	271	271	271
TOTALS	60,738	19,854	10,579	11,053	11,737	11,987	11,737
INCOME 16/day \$80/Mos/yth			4,800	8,160	12,960	12,960	12,960
DIFFERENCE			5,779	2,893	1,223	973	1,223

MONTANA LEGISLATIVE COUNCIL
LIBRARY